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1. What it is a database ?

A database is a collection of independent components, such as pieces of information, data, or works, arranged in a systematic or methodical way and which are individually accessible by electronic or other means. The content of a database can include literary, musical, artistic, or other works or material such as text, sound, images, numbers, facts, and raw data. Multimedia resources also fall under this definition but computer programs do not. Database protection applies to electronic and non-electronic databases.

2. Grounds for database protection

There are two main bases for database protection: copyright protection (under the condition of creativity) and new *sui generis* protection (under the condition of substantial investment). Copyright protection has an international character (databases are protected in almost all countries in the world), whereas *sui generis* protection is obtained for persons from the EU only in EU countries. Persons from outside the EU may obtain protection only under the condition of reciprocity if, in their country, such protection is introduced. For example, the USA does not provide *sui generis* protection as such. Under EU law, cumulative protection of databases is possible under copyright and the *sui generis* right.

Neither copyright protection nor *sui generis* protection creates a new or additional protection for each individual element of a database. Database protection provides protection for a database only as a compilation.

3. Copyright protection of a database

Copyright protection applies to databases that are creative in selection or/and arrangement. Copyright exists for those databases that constitute their authors' own intellectual creation in the selection and/or arrangement.

Copyright protection is owned by the author and expires 70 years after the author's death.

4. Fair use of a database

As a rule, databases, and any other types of works, are subject to fair use. It is important to mention, however, that exceptions for private use are limited only to non-electronic databases.

5. Sui generis protection of a database

Sui generis protection was introduced in the EU by database directive from 1996 ([directive 96/9/EC on the legal protection of databases](#)).

Under that directive, database producers obtain new *sui generis* protection. This form of protection should not affect the rights of the creators of works incorporated in the contents of a database.

6. A condition of *sui generis* protection

Protection is granted if a substantial investment is made to obtain, verify, and present database content. A substantial investment is the deployment of financial resources and/or the expenditure of time, effort, and energy to generate and present the database content. Protection applies to the whole of a database or a substantial part (measured qualitatively or quantitatively).

It should be pointed out that an investment to generate data that goes into the database is not considered an investment in creating the database itself and therefore cannot be grounds for protection. This is meant to prevent monopolisation of the information itself.

7. Content of *sui generis* right

Sui generis right consists of two rights:

- the right to extract all or a substantial part of the database and
- the right to re-use all or a substantial part of the database.

The former is similar to the right of reproduction, the latter to the right of distribution granted to a copyright holder.

The duration of rights of the database producer right is 15 years from the completion of the database. If a new substantial investment is made to an existing database, the creator can gain a new right to the altered (e.g. updated or supplemented) database or its substantial part.

8. Producer of a database

The person who undertakes the initiative of creating the database and takes the risk of investing (deploying resources) to carry it out, becomes the holder of the *sui generis* right to the database – producer of database. It up to the producer to prove the substantial investment costs incurred. This can be done, for example, by providing invoices or information on employees working on the database and the tasks they performed.