

Legal protection of databases

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The Council recorded political agreement on its common position on the Directive on the legal protection of databases. Once it was formally adopted at a subsequent meeting, the common position would be sent to the European Parliament so that the codecision procedure could continue. The proposal is based on the finding that databases are not at present sufficiently protected in all the Member States by the legislation in force. Database manufacture requires the investment of considerable human, technical and financial resources while such databases can be copied or accessed at a fraction of the cost needed to develop them independently. The extraction and/or re-utilisation of the contents of a database constitute acts that can have serious economic and technical consequences. Moreover, it is evident that the 'information society' is creating a growing demand for databases, which are already a market in full expansion. However, the necessary investments in modern systems for storing and processing information will not be made in the Community unless a stable and uniform legal regime is introduced to protect the rights of database manufacturers. By 'database' the common position means a collection of works, data or other independent materials, which are systematically or methodically arranged and can be individually accessed by electronic means or other means. This text, which covers databases in any form, represents a balance between the rights of manufacturers and those of users. The text provides for the granting of copyright protection to databases on the one hand, and protection by a new *sui generis* specific right on the other hand. Databases that, by the choice or arrangement of subjects, constitute an intellectual creation belonging to their author would be protected as such by copyright. The copyright granted by the Directive does not, however, cover the content of the database itself, which is often already covered by such a right. The selection and development of databases - which often contain factual information and figures and not entire texts - does not always constitute enough 'originality' to justify the application of copyright. The subject of the new *sui generis* right, which would cover the contents of a database, would therefore be to ensure protection of an investment (financial, in human resources, work and energy) in the obtaining, checking or presenting of a database. This right would make it possible for a manufacturer to prevent the non-authorised extraction and/or the re-utilisation of the whole or a substantial part of the contents of a database, without prejudice, however, to application of the rules of competition (especially as regards the abuse of dominant positions and abusive practices). The protection granted by this right would apply for fifteen years after the completion of a database. The Member States would have the option of providing for certain exceptions to the *sui generis* right, in particular as regards extractions for private purposes or illustration in teaching. Under the common position, the *sui generis* right could be extended to databases manufactured in third countries, on the basis of reciprocal agreements. The Member States should transpose the Directive into their national legislation before 1 January 1998.