Legal protection of databases

1992/0393(COD) - 10/07/1995 - Council position

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.