Basic information

1992/0393(COD) COD - Ordinary legislative procedure (ex-codecision procedure) Directive	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	PALACIO VALLELERSUNDI Ana (PPE)	26/07/1994

Council of the European Union

Council configuration	Meetings	Date
Economic and Financial Affairs ECOFIN	1863	1995-07-10
Competitiveness (Internal Market, Industry, Research and Space)	1851	1995-06-06
Agriculture and Fisheries	1904	1996-02-26

Key events

Date	Event	Reference	Summary
30/01/1992	Legislative proposal published	COM(1992)0024	Summary
06/07/1992	Committee referral announced in Parliament, 1st reading		
09/06/1993	Vote in committee, 1st reading		Summary
21/06/1993	Debate in Parliament		Summary
04/10/1993	Modified legislative proposal published	COM(1993)0464	Summary
23/11/1993	Vote in committee, 1st reading		
10/07/1995	Council position published	07934/2/1995	Summary
21/09/1995	Committee referral announced in Parliament, 2nd reading		
20/11/1995	Vote in committee, 2nd reading		Summary
20/11/1995	Committee recommendation tabled for plenary, 2nd reading	A4-0290/1995	
			Summary

13/12/1995	Debate in Parliament		
26/02/1996	Act approved by Council, 2nd reading		Summary
11/03/1996	Final act signed		
11/03/1996	End of procedure in Parliament		
27/03/1996	Final act published in Official Journal		

Technical information

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

Documentation gateway

European Parliament

Document type	Committee	Reference	Date	Summary
Committee report tabled for plenary, 1st reading/single reading		A3-0183/1993 OJ C 194 19.07.1993, p. 0004	09/06/1993	
Text adopted by Parliament, 1st reading/single reading		T3-0369/1993 OJ C 194 19.07.1993, p. 0132-0144	23/06/1993	Summary
Committee final report tabled for plenary, 1st reading /single reading		A3-0364/1993 OJ C 342 20.12.1993, p. 0002	23/11/1993	
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	Summary
Committee recommendation tabled for plenary, 2nd reading		A4-0290/1995 OJ C 339 18.12.1995, p. 0005	20/11/1995	
Text adopted by Parliament, 2nd reading		T4-0615/1995 OJ C 017 22.01.1996, p. 0135-0164	14/12/1995	Summary

Council of the EU

Document type	Reference	Date	Summary
Council position	07934/2/1995 OJ C 288 30.10.1995, p. 0014	10/07/1995	Summary

European Commission

Document type	Reference	Date	Summary
Legislative proposal	COM(1992)0024 OJ C 156 23.06.1992, p. 0004	30/01/1992	Summary
Modified legislative proposal	COM(1993)0464 OJ C 308 15.11.1993, p. 0001	04/10/1993	Summary
Reconsultation	COM(1993)0570	10/11/1993	
Commission communication on Council's position	SEC(1995)1430	18/09/1995	Summary
Commission opinion on Parliament's position at 2nd reading	COM(1996)0002	10/01/1996	Summary
Follow-up document	SWD(2018)0146	26/04/2018	
Follow-up document	SWD(2018)0147	26/04/2018	

Other institutions and bodies

Institution/body	Document type	Reference	Date	Summary
EESC	Economic and Social Committee: opinion, report	CES1313/1992 OJ C 019 25.01.1993, p. 0003	24/11/1992	Summary

Additional information

Source	Document	Date
European Commission	EUR-Lex	

Final act

Directive 1996/0009
OJ L 077 27.03.1996, p. 0020 Summary

Legal protection of databases

1992/0393(COD) - 24/11/1992 - Economic and Social Committee: opinion, report

Legal protection of databases

1992/0393(COD) - 11/03/1996 - Final act

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.

Legal protection of databases

1992/0393(COD) - 23/06/1993 - Text adopted by Parliament, 1st reading/single reading

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

1992/0393(COD) - 06/06/1995

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.

Legal protection of databases

1992/0393(COD) - 18/09/1995 - Commission communication on Council's position

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

1992/0393(COD) - 02/12/1993

In its first reading under the codecision procedure, the European Parliament confirmed its vote of 23 June 1993.

Legal protection of databases

1992/0393(COD) - 10/01/1996 - Commission opinion on Parliament's position at 2nd reading

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

1992/0393(COD) - 26/02/1996

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

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

The Council adopted, with the Portuguese delegation abstaining, its common position on the legal protection of databases (see also Press Release 7568/95, Presse 162). This common position will now be forwarded to the European Parliament for the codecision procedure to proceed.

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.

Legal protection of databases

1992/0393(COD) - 04/10/1993 - Modified legislative proposal

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

1992/0393(COD) - 30/01/1992 - Legislative proposal

Legal protection of databases

1992/0393(COD) - 14/12/1995 - Text adopted by Parliament, 2nd reading

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.