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UNITEDNATIONSECONOMIC
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WESTERNASIA(ESCWA)



WORLDINTELLECTUAL
PROPERTYORGANIZATION

**WIPO-ESCWAARABREGIONALCONFERENCEON
INTELLECTUALPROPERTYANDELECTRONICCOMMERCE**

organizedby
theWorldIntellectualPropertyOrganization(WIPO)
and
theUnitedNationsEconomicandSocialCommissionforWesternAsia
(ESCWA)

incooperationwith
theMinistryofEconomyandTrade

Beirut, May 7 and 8, 2003

PROTECTIONOFDATABASE

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EU Database Protection

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European Database protection

- Database protection Directive (11 March 1996)
- Two-tier protection scheme: copyright and sui generis right
- Object of protection: *«collection of works, data or other materials arranged in a systematic or methodological way and individually accessible by electronic or other means»*

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Definition of a Database

- Three conditions:
 - Collection: important number of items
 - Structure or arrangement of content (for ex. if database management software)
 - Independence of elements and individually accessible
- Application: a content advice website will be considered as a database

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Condition for sui generis protection:

–Substantial investment:

- qualitative (expertise of a professional) or
- quantitative (financial resources, time, effort, etc.)

But: evidence issue

–Object of investment:

- Obtaining (collecting the data) or
- Verification (checking, correcting, updating, etc.) or
- Presentation (retrieval of data, digitalisation of the analog files, design of a user interface, etc.)

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Owner of the database right

- Maker of the database: « *person who takes the initiative and the risk of investing*» (recital 41)
- Exclusion of subcontractors
- Joint ownership issues

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Scope of the database right

- Right to prevent extraction: «*the permanent or temporary transfer of the whole or of a substantial part (...) of the contents of the database*»
 - In practice: downloading, copying, printing or any reproduction in whatever form (even transitory)
- Right to prevent reutilization: «*any form of making available to the public*»
 - In practice: distribution of hard copies, renting, on-line forms of transmission

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Duration

- 15 years from the date of completion of the making of the database or the first making available to the public
- But if substantial change (for ex. substantial verification of the contents): new term of protection

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Beneficiaries of protection

- Nationals of a Member State
- Companies formed according to the law of a Member State and having their registered office or principal place of business within the Community
- Extension to foreigners on the basis of special agreements if material reciprocity

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