

## PANEL IV – DATABASE PRODUCERS’ AND PUBLISHERS RIGHTS

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### **1. Are Databases legally protected in your Country? How?**

Yes, *databases are protected* in Greece. More specifically, pursuant to Art. 2 par. 2 (a) of L. 2121/1993 “for Copyright, Related Rights and other cultural matters” databases which, by reason of the selection or arrangement of their contents, *constitute the author’s own intellectual creation*, are (to be) protected as such by copyright. In other words, when the above-mentioned conditions are met, databases are considered to be and shall be protected as “works”. The copyright protection of a database as such shall not extend to the contents (i.e. works, data or other materials) of this particular database and shall be without any prejudice to the rights subsisting in these contents themselves.

### **2. Is there a sui generis Database producer’s right or equivalent protection in your Country?**

Yes, *there is* such a protection. According to Art. 45A of L. 2121/1993, which incorporates Art. 7 par. 1 of the Database Directive 96/9/EC into the Greek legal order, the maker (“producer”) of a database has the (*sui generis*) *right*, which shows that there has been qualitatively and/or quantitatively a substantial investment in either the obtaining, verification or presentation of its contents, to prevent extraction and/or re-utilization of the whole or of a substantial part, evaluated qualitatively and/or quantitatively, of the contents of that particular database. As to the “maker/producer of the database”, it is explicitly defined as the legal or natural person that undertakes the initiative and bears the risk of the relevant investment. Furthermore, the database contractor is not considered as the maker/“producer”.

### **3. Is it possible to evaluate its efficiency and level of enforcement?**

Taking into account the number (approx. 15) and content of the judicial decisions, which have been issued by the Greek courts during the last 10 years and are related to the *sui generis* Database producer’s right, we could say that the protection provided for is quite efficient and properly enforced. In this context, it should be specifically mentioned that Greek courts tend to resort to this particular protection in order to adjudicate cases/“illegal acts” *that do not constitute infringements* within the meaning of Copyright Law.

#### **4. Is there any different form of protection for Database producers or for ownership of data?**

There is no other/different form of protection for Database producers than the one resulting from the incorporation of Art. 7 par. 1 of the Database Directive 96/9/EC into the Greek Copyright Law 2121/1993, as referred to above (under 2). However, regarding “ownership” of data, we should mention the protection provided to natural persons in relation to the processing of their personal data, which emanates from Regulation 2016/679 (GDPR) of the European Parliament and of the Council of the EU. This particular Regulation, which has radically influenced the way(s) companies and/or other organizations use the personal data (sensitive or not) they are possessing, is applied in Greece pursuant to the provisions of the implementing Law 4624/2019 (FEK 137/A/29.08.2019).

#### **5. How does it work? Is it effective?**

In regards to the above-mentioned protection offered to personal data, it should be noted that a) it is very effective and b) the Hellenic Data Protection Authority (HDDPA), which is responsible for supervising the implementation of the provisions of the GDPR [Article 51(1), recital 123], Law 4624/2019 and other regulations concerning the protection of the individual from the processing of personal data (article 9 of Law 4624/2019), is competent to carry out, *inter alia*, the following tasks:

- To provide data subjects with information on the exercise of their rights upon their request.
- To handle complaints submitted for infringement of GDPR provisions.
- To carry out investigations or inspections on the application of the legislation on the protection of personal data.

Taking a closer look to its decisions, it should be mentioned that HDDPA considers the right to the protection of personal data *not as an absolute right*, but in relation to its function in society. Therefore, it balances this right against other fundamental rights (e.g. freedom of expression and information, freedom of thought, freedom to conduct a business, the right to an effective remedy and to a fair trial etc.), in accordance with the principle of proportionality.

#### **6. How do the courts of your country balance the *sui generis* right with the freedom of information and freedom of competition?**

There is no reference to the above freedoms in the decisions of the Greek courts that deal with the *sui generis* right of the database producer. However, in some of

those there is a *competition law* “*argumentation*”. More specifically, based on the “British Horseracing Board Ltd and others” case (C- 203/02), some Courts considered that the *sui generis* right has an economic justification, which is to afford protection to the maker of the database and guarantee a return on his investment in the creation and maintenance of the database. Therefore, they continued, it is not relevant, in an assessment of the scope of the protection of the *sui generis* right, that the act of extraction and/or re-utilisation is for the purpose of creating another database, *whether in competition with the original database or not*, and whether the same or a different size from the original, nor is it relevant that the act is part of an activity other than the creation of a database. Furthermore, in this context it shouldn’t be forgotten that the 42nd recital of the preamble to the Directive 96/9/EC stipulates that “the right to prohibit extraction and/or re-utilisation of all or a substantial part of the contents (of a database) relates not only to the manufacture of a parasitical competing product but also to any user who, through his acts, causes significant detriment, evaluated qualitatively or quantitatively, to the investment”.

**7. Is the *sui generis* right protected against circumvention of TPM designed for controlling access?**

From the interpretation of par. 1 of Art. 66A of the L. 2121/1993 in conjunction with par. 2 of the same provision, it follows that the *sui generis* right is protected against circumvention of TPM designed for controlling access.

**8. Is there a special protection against online uses of press publications in your Country?**

No, there is not such a protection.

**9. Does it apply to scientific journals and hyperlinks? How does it work?**

N/A

