PROTECTION OF DATABASES - *THE SUI GENERIS* RIGHT

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Abstract: *Member States' national law, which had provided a different protection of databases according to their level of originality determined the adoption of a communitarian directive, namely the European Parliament and the Council Directive 96/9/EC of 11 March 1996 on the legal protection of databases. The scope of this directive was to ensure legal protection for the so called "non-original" databases (simple lists of information). However, ECJ did not change its jurisprudence after the directive, refusing legal protection for "non-original" databases, which fact curtailed significantly the scope of the provision, inducing legal uncertainty on the EU and national level as well.*

Rezumat: *Legislația statelor membre, ce acorda o protecție diferită bazelor de date în funcție de gradul lor de orginalitate a determinat adoptarea unei directive comunitare, respectiv a Directivei 96/9/CE a Parlamentului European şi a Consiliului din 11 martie 1996 privind protecția juridică a bazelor de date, în vederea asigurării unei protecții legale şi a aşa numitelor baze de date neoriginale (simple liste de informații). CJE, însă, nu şi-a modificat jurisprudența ulterior directivei, în sensul că a lăsat în continuare bazele de date neoriginale lipsite de protecție legală, ceea ce limitează considerabil scopul reglementării, creînd o stare de incertitudine juridică la nivel comunitar şi național.*

Keywords: protection of databases, database legal protection, "spin-off" databases, "sweat of the brow" (doctrine, theory), "non-original" databases, sui generis right

Cuvinte cheie: protecția bazelor de date**,** protecția legală a bazelor de date, bazele de date „spin-off" (liste de informații), teoria (doctrina) „sweat of the brow" (a sudorii frunții), bazele de date neoriginale, drepturile *sui generis*

1. What is a database?

As other authors noticed[1], elaborating a definition of the term "database" is not a simple pursuit, because the concept has not a precise definition. Generally, a database is defined as a collection of data, organised in a certain way, usually, but not necessarily having an electronic nature. The term may be approached from different points of view, because it has different meanings for different professionals. To the author of information contained in the database, the term might refer to a way to make it known to the public, to the programmer, it might mean a specific application used to classify data into different categories, to the user, it is a helpful source of information etc.

The community legislator formulates a legal definition in the European Parliament and the Council Directive 96/9/EC of 11 March 1996 on the legal protection of databases[2], article 1 § 2. According to the Directive, " *"database" shall mean collection of independent works, data or other materials arranged in a systematic or methodical way and individually accessible by electronic or other means*".

The narrow interpretation refers to electronic databases, but a wide definition includes any compilation created using a computer technology and which can be operated using such technology. A popular example refers to those compilations which can be commercialised on CD, such as electronic dictionaries, encyclopedias etc.[3]. The broad definition comprises even listings of telephone subscribers, compilation of case-law and legislation, catalogues of different types of information etc.

Any compilation requires the contribution of three different creators, the author of data, the programmer and the author of the database.[4]

The *author of data* which represents the content of a database might possess a copyright or a related right, if the condition of originality subsists. There is no connection between the protection granted to the author of the database and the author of the data. The Directive specifically regulates that "the copyright protection of databases provided by this Directive shall not extent to their contents and shall be without prejudice to any rights subsisting in those contents themselves" (article 3 § 1). If the author of the data and the author of the database is the same person, it is necessary to make a difference between the investments in creating the information and colleting information. This shall be debate upon in the section referring to the jurisprudence of ECJ.

The programmer's contribution in the creation of a database consists in conceiving a computer program for collecting, fixing, changing and arranging information. His contribution extends to finding the most appropriate way of searching information, using hypertext, links etc. Generally speaking, he is the one who makes the database work. His activity, anyway, is not an independent one, because the creator of the database is the person who gives the instructions. Of course, the software thus created, could be protected by copyright under certain conditions, if it were independent of the database. Computer programs used in the making or operation of databases accessible by electronic means are not protected by the Directive[5], but by the Directive 91/250/EEC of 14 May 1991 on the legal protection of computer programs[6].

The creator of the database is the key figure in the whole compilation activity, because he is a professional in a certain field, and, therefore, he is able to choose the information collected in the database. Many times he finds himself in a direct connection with the authors of the content of the database, influencing the act of creation. His creation is independent from the content, but most of the times it enriches it. His contribution could be also protected by copyright in certain

conditions (if the selection or the arrangement of the contents of a database were the author's own intellectual creation, so the protection covers the structure of the database), but it also benefits of a different type of protection if it lacks originality (originality determined using aesthetic or qualitative criteria), yet representing a substantial investment in collecting, verifying and presenting information, the so called *sui generis right*.

2. Premises of the new legislation

As it is stated in the preamble of the Directive, its aim was to eliminate the existing differences in the legal protection of data bases offered by the legislation of Member States, by harmonising the rules that applied to copyright protection.

At the time of its adoption, the Commission identified the differences in the standard of "originality" between *common law* Member States and *droit d'auteur* Member States, which subsequently influenced the level of protection granted to databases[7].

Prior to the adoption of the Directive, the Member States' national laws had different approaches of the "level of originality" required in order to consider a database safeguarded or not by copyright law. *Droit d'auteur* Member States protected only "original" databases which implied an element of "intellectual creation", and this high standard of "originality" led to the granting of the copyright protection only to few databases, the so called "original" databases. The *common law* Member States protected not only the "original" but also the "non-original" databases, when the creation of the "non-original" databases involved considerable skills, effort or an important decision process in collecting and checking compilation. The fundamentals of this protection were the "sweat of the brow" theory.

I shall not insist on the *droit d'auter,* because the subject is well known, in my opinion, and, anyway, it does not refer to the *sui generis* right, but I consider there are some questions related to the "*sweat of the brow*" theory, and, in this context, I will draw some ideas about "*spin-off*" databases.

"*Spin-off*" databases are simple lists incorporating information such as telephone numbers[8], fixture lists[9], lists of horses running in the races[10], television programmes' lists[11] etc.

Usually, before the adoption of the Directive, this type of databases was not protected by copyright according to the jurisprudence of European Court. In the *Magill* case[12], for instance, the European Commission found that the three public television broadcasters whose images were broadcasted in Ireland had abused their dominant position on the Irish broadcasting market refusing to license Magill to publish in its magazine a comprehensive weekly television guide, given that information about TV programme timings was indispensable to allow a firm to compete in the market for TV list magazines. The Court of first instance found that *"although the programme listings were at the material time protected by copyright*

as laid down by national law, which still determined the rules governing that protection, the conduct at issue could not qualify for such protection within the framework of the necessary reconciliation between intellectual property rights and the fundamental principles of the Treaty concerning the free movement of goods and freedom of competition. The aim of that conduct was clearly incompatible with the objectives of Article 86". Therefore, in this case, the Court ruled that "spin-off" databases were not protected, but its judgment was motivated not by the appliance of the copyright rules, but through the appliance of free movement of goods and freedom of competition standards.

The jurisprudence was similar in the United States of America, but, in this case, the motivation was based on copyright elements. The landmark case was *Feist Publications, Inc. v Rural Telephone Service Co*., 499 U.S. 340 (1991)[13]. Even the U.S. Copyright Report on Legal Protection for Databases from August 1997[14] speaks about a period "before Feist" and "subsequently judicial interpretation of Feist". Shortly, in Feist case, the plaintiff, Rural Telephone Service Co. (Rural), was a local telephone company that produced a white-pages telephone directory covering its service area. Feist Publications (Feist), the defendant, published a directory covering multiple service areas. After Feist sought, and was refused, a license to the listings in Rural's directory, it copied the listings without authorization. The Court reviewed the former "sweat of the brow" theory and, actually, rejected it, settling that authorship means a certain level of originality in the selection, coordination and arrangement of the underlying material. Rural's selection of listings was not just unoriginal, but practically inevitable, so, in this kind of works,"*the creative spark was utterly lacking or so trivial as to be virtually nonexistent*". The conclusion, anyway, was that factual lists had not been protected by copyright.

3. The EU database Directive 96/9/EC

In its attempt to harmonise the legislation of different Member States, the community legislator found a way to protect not just databases which fall within the *droit d'auteur* concept, but also those databases which lack in originality, but had been protected before by "sweat of the brow" criterion.

The new Directive contains rules protecting the "original" databases and rules for "non-original" databases, protected by the *sui generis right.* Its real purpose was, as it easily noticeable, to assure protection within the Union for those databases which do not meet the originality requirements in order to be protected by copyright in the light of *droit d'auteur* criterion.

As a consequence, the protection of databases is divided in *copyright* and *sui generis right*.

Copyright

According to article 3 § 1, "*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. No other criteria shall be applied to determine their eligibility for that protection."* Backing up to the 16th recital of the preamble, "*no criterion other than originality in the sense of the author's intellectual creation should be applied to determine the eligibility of the database for copyright protection, and in particular no aesthetic or qualitative criteria should be applied"*.

Copyright entitles the author of a database to authorize:

"(a) temporary or permanent reproduction by any means and in any form, in whole or in part;

(b) translation, adaptation, arrangement and any other alteration;

(c) any form of distribution to the public of the database or of copies thereof. The first sale in the Community of a copy of the database by the rightholder or with his consent shall exhaust the right to control resale of that copy within the Community;

(d) any communication, display or performance to the public;

(e) any reproduction, distribution, communication, display or performance to the public of the results of the acts referred to in (b)." (article 5).

There are still certain restrictions of these rights which may be stipulated in national legislation, enumerated in article 6, in favor of the lawful user, in case of reproduction of a non-electronic database for private purposes, in case of use for the sole purpose of illustration for teaching or scientific research (non commercial purposes), for the purpose of public security or for the purpose of an administrative or judicial procedure, without allowing its use in a manner that would unreasonably prejudices the rightholders' legitimate interests or conflicts with normal exploitation of the database.

Sui generis right

The relevant provisions from Directive are:

Article 7

"*1. Member States shall provide for a right for the maker of a database which shows that there has been qualitatively and/or quantitatively a substantial investment in either the obtaining, verification or presentation of the 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 database.*

2. For the purposes of this Chapter:

(a) 'extraction` shall mean the permanent or temporary transfer of all or a substantial part of the contents of a database to another medium by any means or in any form;

(b) 're-utilization` shall mean any form of making available to the public all or a substantial part of the contents of a database by the distribution of copies, by renting, by on-line or other forms of transmission. The first sale of a copy of a database within the Community by the rightholder or with his consent shall exhaust the right to control resale of that copy within the Community; public lending is not an act of extraction or re-utilization. (…)

5. The repeated and systematic extraction and/or re-utilization of insubstantial parts of the contents of the database implying acts which conflict with a normal exploitation of that database or which unreasonably prejudice the legitimate interests of the maker of the database shall not be permitted."

The Directive also stipulates the rights and obligations of lawful users in article 8[15] and exceptions to the *sui generis right* in article 9[16].

4. Case-Law of the European Court of Justice

On 9 November 2004, for the first time, the European Court of Justice gave its interpretation of the scope of the *sui generis right* under Directive 96/9/EC, in four cases referred to it under Article 234 of the EC Treaty by national Courts of the United Kingdom, Finland, Sweden and Greece, namely:

1) **Case C-46/02**, Fixtures Marketing Ltd – v – Oy Veikkaus Ab

2) **Case C-203/02**, The British Horseracing Board Ltd et al ("BHB") – v – William Hill Organisation Ltd

3) **Case C-338/02**, Fixtures Marketing Ltd – v – AB Svenska Spel

4) **Case C-444/02**, Fixtures Marketing Ltd – v – OPAP

I shall not evoke all of them, just one, which, in my opinion, is the most relevant.

The British Horseracing Board Ltd and Others – v – William Hill Organisation Ltd[17]

Facts of the case

The British Horseracing Board (BHB) is the governing authority for the British horse racing industry, being responsible for the compilation of different types of data related to horseracing, such as pedigrees of horses, name, place, date

of the race concerned, the distance over which the race is to be run, the criteria for eligibility to enter the race, the date by which entries must be received, the entry fee payable and the amount of money the racecourse is to contribute to the prize money for the race.

Weatherbys Group Ltd, the company which compiles and maintains the BHB database, performs three principal functions, which lead up to the issue of pre-race information, namely, registering information concerning owners, trainers, jockeys and horses and records the performances of those horses in each race, deciding on weight adding and handicapping for the horses entered for the various races and compiling the lists of horses running in the races. This activity is carried out by its own call centre, manned by about 30 operators. They record telephone calls entering horses in each race organised. The identity and status of the person entering the horse and whether the characteristics of the horse meet the criteria for entry to the race are then checked upon. Following those checks the entries are published provisionally. To take part in the race, the trainer must confirm the horse's participation by telephone by declaring it the day before the race at the latest. The operators must then ascertain whether the horse can be authorised to run the race in the light of the number of declarations already recorded. A central computer then allocates a saddle cloth number to each horse and determines the stall from which it will start. The final list of runners is published the day before the race.

The annual cost of continuing to maintain the database and keep it up to date is approximately £4 million.

The racing information, including the names of all the participants in all the races in the UK, is made available to radio and television broadcasters, magazines and newspapers and to members of the public on the afternoon before the race through newspapers and Ceefax/Teletext.

On the day before a race, bookmakers receive, through various subscriber services, a specific compilation of information without which bets could not be placed.

William Hill Organisation Ltd is one of the leading providers of odds in horseracing. In addition to traditional sales methods – such as licensed betting offices and telephone betting – it offers internet betting for all the major horse races in the UK.

The information displayed on its web sites comes from newspapers and from an information service for subscribers that in turn obtains its information from the BHB's database. Neither the newspapers nor the information service have any right to grant a sublicense to William Hill to use any information derived from the BHB's database on its web site.

The information on the William Hill web site only covers a small part of the whole of the BHB database and is arranged in a different way. If the customer requires any other information to arrive at an informed view of the horse's chances of success, such information can be found elsewhere, such as newspapers.[18]

Arguments of the British Horseracing Board Ltd

"In March 2000 the BHB and Others brought proceedings against William Hill in the High Court of Justice of England and Wales, Chancery Division, alleging infringement of their *sui generis* right. They contend, first, that each day's use by William Hill of racing data taken from the newspapers or the RDF is an extraction or re-utilisation of a substantial part of the contents of the BHB database, contrary to Article 7(1) of the directive. Secondly, they say that even if the individual extracts made by William Hill are not substantial they should be prohibited under Article 7(5) of the directive. "

Request for a preliminary rulings

The High Court of Justice ruled in a judgment of 9 February 2001 that the action of BHB and Others was well founded. William Hill appealed to the referring court.

The Court of Appeal decided to stay proceedings and refer the following to the Court of Justice for a preliminary ruling, raising questions regarding the interpretation of certain terms, such as:

- "substantial or insubstantial part of the contents of the database",
- "substantial part evaluated quantitatively and qualitatively",
- "extraction",
- "re-utilisation",
- "acts which conflict with a normal exploitation of that database or unreasonably prejudice the legitimate interests of the maker of the database".

The Rulings

1. ***The expression 'investment in … the obtaining … of the contents' of a database in Article 7(1) of Directive 96/9/EC of the European Parliament and of the Council of 11 March 1996 on the legal protection of databases must be understood to refer to the resources used to seek out existing independent materials and collect them in the database. It does not cover the resources used for the creation of materials which make up the contents of a database.***

The expression 'investment in … the … verification … of the contents' of a database in Article 7(1) of Directive 96/9 must be understood to refer to the resources used, with a view to ensuring the reliability of the information contained in that database, to monitor the accuracy of the materials collected when the database was created and during its operation. The resources used for verification during the stage of creation of materials which are subsequently collected in a database do not fall within that definition.

The resources used to draw up a list of horses in a race and to carry out checks in that connection do not constitute investment in the obtaining and verification of the contents of the database in which that list appears.

In other words, if the author of the databases invested in creating the data, this does not constitutes also an investment in obtaining it from an independent source and in verification. Consequently, there is no protection by *sui generis right,* which is the equivalent for any protection at all, because the data incorporated in the content is not original, so it is not protected by the copyright. Many times, like in the case cited, there is no difference between creating the data and obtaining the data, because there must be somebody to collect that information directly from the interested individuals, like horse owners for instance, in this case.

Resolving the question as above stated, the Court left the "spin-off" databases without any protection, which was not the real intention of the community legislator, despite of the jurisprudence of the court before the Directive[19]. Reading the Commission's *First evaluation of Directive 96/9/EC on the legal protection on data bases*[20], we notice that certain resentments transpires because of the narrow interpretation given by the Court to the *sui generis* protection for "non-original" databases where the data were created by the same entity as the entity that established the database, the so called "single-source" databases, whereas other industries like publishers of directories, listings or maps, remain protected as long as they solely obtain these data from others and do not create their own data.

In this procedure, the Court should give an abstract answer to an abstract question, leaving the national judge to apply the law interpreted by the Court to the facts. In other words, the final solution shall not transpire from the preliminary rulings. In this case, the Court crossed the line and ruled on the facts, saying that *"the resources used to draw up a list of horses in a race and to carry out checks in that connection do not constitute investment in the obtaining and verification of the contents of the database in which that list appears".* This fact did not remain unnoticed by the national judges, as we may conclude by perusing the final decision[21]. Lord Justice Pill motivated his opinion mainly based on the conclusion of the European Court, which should have been applied by his Court (48, 49). Lord Justice Clarke limited his arguments by simply embracing those of the other two LJ. Lord Justice Jacob, who was the main redactor of the judgment, found a supplementary argument in order not to give up his own beliefs about the protection of "spin-off" data bases on the field of "sweat of brow" theory. He explained that the final database, which is eventually published, had had the BHB's stamps of authority on it, becoming an official list. That meant "no one else could go trough a similar process to produce the official list". So, the BHB's database was not one consisting of "existing independent materials", because the nature of information was changed with the stamp of official approval, "becoming something different from a mere database existing material" (28, 29, and 30).

2. The terms 'extraction' and 're-utilisation' as defined in Article 7 of Directive 96/9 must be interpreted as referring to any unauthorised act of appropriation and distribution to the public of the whole or a part of the contents of a database. Those terms do not imply direct access to the database concerned.

The fact that the contents of a database were made accessible to the public by its maker or with his consent does not affect the right of the maker to prevent acts of extraction and/or re-utilisation of the whole or a substantial part of the contents of a database.

We shall notice, that *'extraction'* and 're-*utilisation'* includes indirect use of the database. Consequently, a person may extract or reutilise the contents of a database without having direct access to the database from which the contents are derived (or realising they have done so).

The fact that the contents of the database are otherwise publicly available, does not affect the protection of the database.[22]

3. The expression 'substantial part, evaluated … quantitatively, of the contents of [a] database' in Article 7 of Directive 96/9 refers to the *volume* of data extracted from the database and/or re-utilised and must be assessed in relation to the total volume of the contents of the database.

The expression 'substantial part, evaluated qualitatively … of the contents of [a] database' refers to the scale of the *investment* in the obtaining, verification or presentation of the contents of the subject of the act of extraction and/or re-utilisation, regardless of whether that subject represents a quantitatively substantial part of the general contents of the protected database.

Any part which does not fulfil the definition of a substantial part, evaluated both quantitatively and qualitatively, falls within the definition of an insubstantial part of the contents of a database.

This is an eloquent conclusion, which does not necessitate many commentaries. Just a single idea is worthy of mention, on paragraph 70, that throws light on what the substantial part quantitatively evaluated means[23]. The criterion of quantity is explained not just by comparing the volume of data extracted or re-utilised with the volume of the entire content of the database, but the volume of investment in the part extracted or re-utilised with the volume of investment in the entire content. In other words, the *investment* made by the creator of the database will always have to be taken into consideration in the assessment of whether a substantial part has been taken.

4. The prohibition laid down by Article 7(5) of Directive 96/9 refers to unauthorised acts of extraction or re-utilisation the cumulative effect of which is to reconstitute and/or make available to the public, without the authorisation of the maker of the database, the whole or a substantial part of the contents of that database and thereby seriously prejudice the investment by the maker.

5. The impact of the ECJ's interpretation on the scope of the "sui generis" right

There are some conclusions in the Commission's *First evaluation of Directive 96/9/EC on the legal protection on data bases*[24] about the effects of the ECJ's evaluation on the scope of the "sui generis" right, namely that this proved to be a difficult task, and the "sui generis" provisions had caused considerable legal uncertainty in the EU and national level. The scope of the provision was severely curtailed, as noticed the Commission, in the ECJ's judgments, which led to a decreased protection for "non-original" databases.

Trying to solve this situation, the Commission formulated some policy options[25], specifically to repeal the entire Directive; to withdraw the "sui generis" right; to amend the "sui generis" right or to maintain the *status quo.* Apparently, this final option proved to be the viable alternative.

6. Instead of conclusions…

This paper does not pretend to exhaust the subject of the "sui generis" right, not even to be as original as the author wished it to be. Hopefully, the criterion of originality would be applied at least as in the case of databases, for the way the author chose the relevant information and arranged it in a certain logical, order.

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[1] See Laura Gasaway, *Databases and The Law,* Cyberspace Law course at the UNC School of Law for Spring, 2006, http://www.unc.edu/courses/2006spring/law/357c/001/projects/dougf/node1.html .

[2] Published in Official Journal L077, 27/03/1996 P. 0020-0028, http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:31996L0009:EN:HTML, we will call it further the Directive.

[3] See Balogh Zsolt, Information and Communication Technology Law in EU and in Hungary, Chapter 11. *Az adatbazisok vedelme.*

[4] See footnote 3.

[5] See article 1 § 3.

[6] Published in Official Journal L 122, 17/05/1991 P. 0042 – 0046, http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:31991L0250:EN:HTML .

[7] Commission of the European Communities, Brussels, 12 December 2005, DG Internal Market and services Working paper, *First evaluation of Directive 96/9/EC on the legal protection on data bases, p. 1, 7,* http://ec.europa.eu/internal_market/copyright/docs/databases/evaluation_report_en.pdf .

[8] See *Telstra Corporation Limited v Desktop Marketing Systems Pty, Ltd,* http://www.austlii.edu.au/au/journals/DTLJ/2001/1.html and also http://www.findlaw.com.au/article/1308.htm . The case is interesting because the judgment is in favor of protection for "spin-off" databases. For a different opinion, see, *Feist Publications, Inc. v Rural Telephone Service Co*., 499 U.S. 340 (1991), http://www.law.cornell.edu/copyright/cases/499_US_340.htm.

[9] See reference for a preliminary ruling, Fixtures *Marketing Ltd – Oy. Veikkhaus Ab*, Case C – 46/2002, *Fixtures Marketing Ltd – v – AB Svenska Spel*, Case C-338/02, *Fixtures Marketing Ltd – v – OPAP*, Case C-444/02, http://ec.europa.eu/internal_market/copyright/prot-databases/jurisprudence_en.htm

[10] Case C-203/02, *The British Horseracing Board Ltd et al ("BHB")– v – William Hill Organisation Ltd,* http://ec.europa.eu/internal_market/copyright/prot-databases/jurisprudence_en.htm

[11] See *Radio Telefis Eireann v RTE) and Independent Television Publications Ltd (ITP) v Commission of the European Communities,* Joined cases C-241/91 P and C 242/91 P, http://eur-lex.europa.eu/smartapi/cgi/sga_doc?smartapi!celexplus!prod!CELEXnumdoc&numdoc=61991J0241&lg=en .

[12] See footnote 11 above.

[13] For some commentaries, see footnote 1 above, footnote 14 below, and Anita Thomas, *Protection for Databases,* http://library.findlaw.com/1999/Jun/1/128089.html . For the text of the judgment, see footnote 8.

[14] See http://www.copyright.gov/reports/dbase.html .

[15] The text is: "1. The maker of a database which is made available to the public in whatever manner may not prevent a lawful user of the database from extracting and/or re-utilizing insubstantial parts of its contents, evaluated qualitatively and/or quantitatively, for any purposes whatsoever. Where the lawful user is authorized to extract and/or re-utilize only part of the database, this paragraph shall apply only to that part.
2. A lawful user of a database which is made available to the public in whatever manner may not perform acts which conflict with normal exploitation of the database or unreasonably prejudice the legitimate interests of the maker of the database.
3. A lawful user of a database which is made available to the public in any manner may not cause prejudice to the holder of a copyright or related right in respect of the works or subject matter contained in the database."

[16] The text is: " Member States may stipulate that lawful users of a database which is made available to the public in whatever manner may, without the authorization of its maker, extract or re-utilize a substantial part of its contents:
(a) in the case of extraction for private purposes of the contents of a non-electronic database;
(b) in the case of extraction for the purposes of illustration for teaching or scientific research, as long as the source is indicated and to the extent justified by the non-commercial purpose to be achieved;
(c) in the case of extraction and/or re-utilization for the purposes of public security or an administrative or judicial procedure. "

[17] See footnote 10 above.

[18] See also *Legal protection for databases: case report,* http://www.out-law.com/page-392 .

[19] See footnotes 11 and 12 above, about the Magill case.

[20] See footnote 7 above, p.13-15.

[21] See http://www.hmcourts-service.gov.uk/judgmentsfiles/j3280/bhb_v_williamhill.htm .

[22] See footnote 18 above.

[23] This paragraph has the following content: "The expression 'substantial part, evaluated quantitatively', of the contents of a database within the meaning of Article 7(1) of the directive refers to the volume of data extracted from the database and/or re-utilised, and must be assessed in relation to the volume of the contents of the whole of that database. If a user extracts and/or re-utilises a quantitatively significant part of the contents of a database whose creation required the deployment of substantial resources, the investment in the extracted or re-utilised part is, proportionately, equally substantial. "

[24] See footnote 7 above, p.13-15.

[25] For more details, see p. 25-27 from the report.