

THE LAW OF THE REPUBLIC OF AZERBAIJAN ON LEGAL PROTECTION OF COMPILATIONS OF DATA

The present Law regulates legal relations arising from creation and use of compilations of data irrespective of their forms.

Chapter 1. General Provisions

Article 1. Key Terms

1.0. Below are definitions of the key terms used in the present Law:

1.0.1. compilations of data shall mean objective form of presentation of the works, data and other materials obtained by electronic or other means arranged in a systematic or methodical way;

1.0.2. legal protection of compilations of data – shall mean independent of each other double protection form consisting of the protection of the structure of the legal compilations of data by copyright and protection of the content of the compilations of data by special protection right.

1.0.3. adaptation of compilations of data shall mean the alteration in the specific technical equipment or compilations of data of the user with the purpose of ensuring its functioning in accordance with the program in use.

1.0.4. reprocessing (modification) of compilations of data shall mean carrying out other modifications not related to adaptation of compilations of data

1.0.5. compilations of data reproduction shall mean transfer of one or more copies of compilations of data to any material medium, as well as their entry to computer memory;

1.0.6. public demonstration and performance of compilations of data shall mean the presentation of compilations of data by their demonstration and performance in any form convenient for perception by public;

1.0.7. publication of compilations of data shall mean presentation of the compilations of data to the uncertain range of the public, including entering the compilations of data to computer memory and printing out the text provided that the number of copies will satisfy necessary needs.

1.0.8. public reproduction of compilations of data (reproduction with the purpose of making available to the public) shall mean public reproduction of compilations of data soever via wire and wireless communication facilities as well as delivery to the public in a manner that makes this compilations of data available for everybody at his option in any place and at any time.

1.0.9. dissemination of compilations of data shall mean making original compilations of data or their copies available to the public via selling or otherwise transfer of ownership.

1.0.10. Use of compilations of data shall mean copying, publication, public presentation, performance, reproduction and dissemination of compilations of data as well as their reprocessing (modification) and otherwise putting compilations of data into civil circulation. Information placed in mass media about published compilations of data is not considered as its utilization.

1.0.11. technical protection facilities shall mean any technical installations or their parts controlling access to compilations of data, preventing or limiting actions not permitted by producer or right holder.

Article 2. Legislation on Legal Protection of Compilations of Data

2.1. The legislation of the Republic of Azerbaijan on legal protection of compilations of data consists of the Constitution of the Republic of Azerbaijan, the present Law, the Law “On

Copyright and Related Rights”, other respective normative-legal acts and international agreements to which the Republic of Azerbaijan is a party.

2.2. Whenever there is a disagreement between the present Law and international agreements to which the Republic of Azerbaijan is a party, provisions of international agreements shall apply.

Chapter II. Copyright

Article 3. Protected Subject Matters

3.1. According to the present Law compilations of data resulting from creativity by means of selecting and assembling materials are copyright protected and the relevant rights shall be exercised in accordance with the Law “On Copyright and Related Rights”.

3.2. Compilations of data shall be copyright protected irrespectively of copyright protection of materials they are based on or include.

3.3. Copyright protection shall apply to objective forms of compilations of data whether reproduced or not irrespectively of their purpose and value.

3.4. Copyright protection of compilations of data shall not apply to any idea and principles of such compilations or their major components (including interface and algorithm performance) as well as programming languages.

3.5. Copyright protection of compilations of data does not apply to their content; the form of compilations of data that include selected and assembled materials shall be protected only but the same protection also applies to any copyright protected components.

3.6. Copyright to compilations of data is not bound to property right to their material medium, and granting of property rights to material medium to another person shall cause no granting of any rights to the compilations of data.

3.7. Copyright to compilations of data shall not prejudice the rights others to create independently, new compilation through selecting and assembling of the same materials.

Article 4. Copyright

4.1. Natural person (persons) who made compilations of data as a result of creativity shall be considered as their author (authors). Copyright to compilations of data created by mutual labor of two or more natural persons (shared authorship) jointly belongs to such persons.

4.2. Copyright to compilations of data made while executing official duties or official orders of employer shall belong to the author of compilations of data. Exclusive right to the use of compilations of data shall belong to person being in labor relationship with author (employer), unless otherwise determined by the agreement.

4.3. Irrespective of the owner of property rights to compilations of data being the subject matter of copyright, personal (non-property) rights determined by the Law of the Republic of Azerbaijan “On Copyright and Related rights” shall belong only to the author.

4.4. Author’s (or other right holder’s) exclusive right to use of compilations of data being the copyright subject matter shall be understood to consist of the right to carry out, permit or prohibit carrying out of the following:

4.4.1. complete or partial copying of compilations of data in any form and in any manner;

4.4.2. modification of compilations of data, including their translation from one language into another;

- 4.4.3. in any form distribution and import with the purpose of distribution of compilations of data and their copies (putting the compilations of data into civil circulation causes the loss of the right for distribution their copies);
- 4.4.4. any public presentation and performance of compilations of data;
- 4.4.5. any public reproduction of compilations of data;
- 4.4.6. other use of compilations of data;
- 4.5. A person who legally acquired copyright protected compilations of data may carry out the following actions without the consent of author or other right holder and without paying author's royalty.
- 4.5.1. carry out all necessary modification for adaptation of compilations of data, and unless otherwise provided for by the authorship agreement, perform any action concerning operation in accordance with their purpose, including recording and entry into computer memory, correction of obvious mistakes.
- 4.5.2. prepare backup copies for changing and archiving of lost, defective or unfit for use copies of compilations of data (backup copy may be used only for the purposes provided for in this article; in case of termination of property right to compilations of data, such copy shall be destructed).
- 4.6 Actions contradicting to normal use or considerably infringing legal interests of author or other copyright holders are not permitted while carrying out actions mentioned in Article 4.5 of the present Law by legal user of compilations of data.
- 4.7. Other issues related to copyright to compilations of data as well as issues related to the use of non-electronic compilations of data for personal, scientific, educational, judicial and administrative purposes as well as other exclusive and restrictive cases shall be regulated by the "Law On Copyright and Related Rights".

Article 5. Granting and Transfer of Property Rights to Copyright Protected Compilations of Data and Term of Protection

- 5.1. Property rights to copyright protected compilations of data may be granted to natural and juridical persons wholly or partly on the basis of agreement or inherited according to the rules provided for by the legislation.
- 5.2. In case of granting rights to compilations of data on the basis of agreement the volume of property rights granted, ways of the use of compilations of data, terms and territory of granting rights, amount of royalty and rules of payment shall be indicated in the agreement. Agreement on granting rights shall be in writing.
- 5.3. Copyright to compilations of data shall arise from the moment of their creation and shall remain in force during the author's whole life and 70 years from the next year following the date of his death.
- 5.4. Copyright to shared compilations of data shall remain in force during the authors' whole life and 70 years from the next year following the date of the death of the last of the authors.
- 5.5. Copyright to compilations of data published anonymously or under the pseudonym shall remain in force during 70 years from the date of their publication. If the author of the compilation of data published under the pseudonym or anonymously discloses his personality during the mentioned period or if his personality no longer raises doubts, the provisions of Article 5.3 of the present Law shall apply.
- 5.6 The protection of private (non-property) rights of the author of compilation of data shall be of unlimited duration.

Chapter III. Right to Special Protection

Article 6. The Subject Matter of Protection

6.1 The producer of the compilations of data prepared, verified and compiled with essential investments to contribute to their quantity and (or) quality, has the right to claim against extraction and (or) repeated use of such compilations of data or their essential (from the quantitative or qualitative point of view) part.

6.2 The financial resources or quantitatively and (and/or) qualitatively considerable investment of time and energy (resources) shall be considered as a criteria of protection granted to the producer of the compilations of data in accordance with the Article 6.1 of the present Law. Newness or material value of data is not necessary in this case.

6.3. The right mentioned in Article 6.1. of the present Law shall be applied irrespective of the fact whether the compilations of data are copyright or otherwise protected. Application of this right does not depend on whether the content of compilations of data is copyright or otherwise protected. Along with this, protection of compilations of data by the right mentioned in Article 6.1 of the present Law does not prejudice rights related to content of compilations of data.

6.4. No actions contradicting to normal use of compilations of data or considerably injuring legitimate interests of producer are prohibited. In the course of extraction and (or) repeated and regular use of insignificant parts of the content of compilations of data,

6.5. The right mentioned in the Article 6.1 of the present Law may be transferred, wholly or partly granted, or permitted for use on the basis of licensing agreement according to the procedures determined by the legislation.

Article 7. Rights and Obligations of the Producer of Compilations of Data

7.1 The right of producer to claim against extraction of the whole or the essential part of the content of compilations of data provided for by the Article 6.1 of the present Law includes the right to permit or prohibit others to make temporary or permanent copies of the whole or the essential part of the content of compilations of data to the other mediums.

7.2 The rights of the producer to claim against repeated use of the whole or the important part of the content of the compilations of data provided for by the Article 6.1 includes the right to permit or prohibit others to make compilations of data available to public by all means, including dissemination, rent, and transfer via printing of copies.

7.3 A producer may not prohibit the legitimate user of compilations of data, irrespective of the purpose to extract and (or) use repeatedly unimportant (from the quality and quantity point of view) parts of the content of compilations of data presented in any form to uncertain range of persons. In case that legitimate user gets permission for extraction or repeated use of a part of the compilation of data this paragraph applies only to such part.

7.4 The first sale of the copy of compilations of data by right holder or with his permission causes cancellation of the right of control over repurchase and resale.

7.5 Lending of the compilations of data for public use shall not be considered as full or partial extraction and repeated use of its content.

Article 8. Duties of Legitimate User of Compilations of Data

8.1. Legitimate user of compilations of data made available to public by any means may not carry out actions contradicting to normal use of the compilation of data or considerably prejudicing producer's legal interests.

8.2. Legal user of compilations of data made available to public by any means may not cause damage to right holders of copyrighted works or other rights relating to services included into the compilations of data.

Article 9. Exceptions from Special Protection Rights

9.0. Legal user of compilations of data made available to public by any means may extract or use repeatedly the important part of the content compilations of data without permission of producer of these compilations of data in the following cases:

9.0.1. the content of compilations of data taken by any person with the purpose of the use by non-electronic manner;

9.0.2. compilations of data taken for non-commercial use in the needed volume as illustration or research material in the process of education.

9.0.3. compilations of data taken or repeatedly used for the sake of public safety or for administrative or legal procedures.

Article 10. Term of Validity of Special Protection Right

10.1. The right provided for in the Article 6.1 of this Law shall enter into force the date of creation of a compilation of data and shall remain in force during 15 years starting from the year following the date of creation a compilation of data.

10.2. The term of protection of a compilation of data made available to the public, in whatever manner before the expiry of the period provided for in Article 10.1 of this Law, shall remain in force during 15 years starting from the year following the date when the compilation of data was first made available to the public.

10.3. Any substantial change to the compilations of data contributing new substantial investment, (qualitatively or quantitatively), including any substantial change consisting of the aggregate of successive additions, deletions, verifications, modifications enable the start of their own new term of protection.

Article 11. Fields of Application of Special Protection Right

11.0. Special protection right shall be applied to the following producers of compilations of data:

11.0.1. nationals of the Republic of Azerbaijan, foreigners having habitual residence in the territory of the Republic of Azerbaijan and stateless persons;

11.0.2. legal entities of the Republic of Azerbaijan;

11.0.3. foreign natural and juridical entities according to international agreements to which the Republic of Azerbaijan is a party.

Chapter IV.

Compilations of Data and Liability for Illegal Use

Article 12. Registration of Compilations of Data

12.1. In accordance with the Law of the Republic of Azerbaijan on “Copyright and Related Rights” holders of exclusive rights to copyright protected compilations of data and producer(s) of the compilations of data (except for the compilations of data containing information concerning state secrets) protected by special protection rights can officially register the compilations of data in the respective executive bodies within the effective period their rights.

12.2. The certificate shall be given to a holder of registered compilations of data.

12.3. Rules for registration of compilations of data shall be defined by the relevant executive authority.

12.4. Agreement on full or partial transfer of the rights to officially registered compilations of data shall be registered in the relevant executive authority in accordance with the procedures determined by the relevant executive authority.

12.5. A state duty shall be paid for the official registration of the agreement on transfer of officially registered compilations of data protected under copyright or sui-generis protection on full or partial transfer of the rights to compilations of data according to the procedure determined by the legislation.

Article 13. Illegal Use of Compilations of Data

13.1. Violation of requirements determined by this Law for the use of compilations of data shall be considered as illegal use.

13.2. Obtaining the compilations of data through access therein because of direct or indirect crack of technical security facilities used by author or another right holder or producer of the compilations of data protected by special protection rights is also considered as illegal use.

13.3. The following actions shall not be allowed with respect to compilations of data:

13.3.1. actions relating to removal of restrictions to the use of compilations of data imposed by relevant technical security facilities without permission of author or other right holder and producer.

13.3.2. services relating to, production, distribution, leasing, temporary use, import, advertising, use for profit-earning, of any technical security facilities or their parts, or carrying out any other activities preventing application of technical security facilities or assurance of proper protection of these rights by technical facilities.

13.4. modification or destroying of information on compilations of data shown on its copies or visible during reproduction with the purpose of making available to public and describing its author or other right holder, or terms of use as well as numbers and code keeping this information without permission of author and other right holder are prohibited.

13.5. reproduction, distribution, import with the purpose of distribution, public demonstration, performance as well as reproduction with the purpose of making available to public of destructed compilations of data containing information about author or other right holder without consent of author or other right holder are prohibited.

Chapter V.

Protection of Rights to Compilations of Data.

Article 14. Pirated Copies

14.1. A copy of compilation of data made (produced), also obtained passing technical protection means via direct or indirect intervention and distributed without consent of right holder or producer shall be considered a pirated copy. Copies of compilations of data imported to the Republic of Azerbaijan without the permission of their right holders or producers that were never protected or those with the expired term of protection in the country they have been exported from, but protected in accordance with present Law shall be also considered as pirated copies.

14.2. Court shall have the right to issue a judgement on removal of the compilations of data causing infringements from commercial network, also, on withdrawal, confiscation or demolition of the materials and equipment utilized in preparation (production) of such compilations of data from user. Third parties' interests shall be taken into consideration when reviewing such questions.

14.3. Pirated copies of compilations of data, materials and equipment utilized in preparations (production) and other means causing infringement shall be confiscated according to

Administrative Errors Code of the Republic of Azerbaijan and Criminal Code of the Republic of Azerbaijan.

Article 15. Civil Remedies of Protection of Rights

15.1. Right holders and producers of compilations of data shall enjoy all remedies provided for in civil legislation for protection of their rights.

15.2. At the time of civil proceedings concerning infringement of the rights to compilations of data, the court can, upon plaintiff's request, apply the following sanctions in addition to general civil remedies:

15.2.1. withholding profits gained by infringer as a result of infringement of rights to compilations of data instead of requesting payment of damages;

15.2.2. payment of compensation in the amount from 110 AZN up to 55.000 AZN instead of requesting payment of damages or withholding profits, .

15.3. In case the infringement is proved, the right holder or producer can demand the infringer to pay compensation for every case of illegal use of compilations of data and entirely for the infringement regardless of the fact whether the damage was caused or not.

Chapter VI. Final Provisions

Article 16. Rights to Compilations of Data Made for Public Needs on the Contractual Basis

16.1. Property rights to compilations of data State-ordered and State financed, and made for public needs shall belong to the State.

16.2 The right holder of compilations of data created for public needs and State-financed shall sign an agreement on free of charge granting of right to use to compilations of data upon the request of public customer in cases of production of goods and rendering services for public needs, if its belonging to the State is not mentioned in agreement.

Article 17. Relation with the Other Forms of Protection

17.1 This law shall not prejudice any protection of information, works or other constituents by the copyright and relating rights, or other rights including industrial property rights as well as protection of folk arts samples and material and non-material heritage; protection determined by the laws on unfair competition, trade secrets, security and state secret; protection of the information related with private and family life and respect to the person; permission to use official documents and right to freedom of contract.

17.2 The legal protection determined by this law shall not apply to software protected by the Law "On Copyrights and Respective Rights" used in maintaining and processing of compilations of data.

Article 18 Application of this Law in Time

18.1 Protection related to the copyright determined by this Law shall also apply to compilations of data made before the effective date of this Law providing that the requirements concerning copyright protection of compilations of data are fulfilled.

18.2 Special protection determined by this Law shall be applied to compilations of data meeting the requirements of the Article 6 of this Law and preparation (production) of which completed within 15 years prior to this Law came into force.

18.3 Protection determined by Articles 18.1 and 18.2 of this Law shall not abolish transactions concluded and rights obtained before the dates determined therein.

18.4 Special protection of compilations of data prepared (produced) within 15 years prior to the effective date of this law shall start from the next year after the effective date this law and remain in force within 15 years.

Article 19 Liability for Illegal Use of Compilations of Data

The persons guilty of illegal use of the compilations of data are subject to civil, administrative and criminal liability.

Article 20 Effective Date of the Law

The present Law shall take effect from the publication date.

Ilham Aliyev
President of the Republic of Azerbaijan
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