

**Act LXXVII of 2001**  
**amending Act LXXVI of 1999 on Copyright<sup>1</sup>**

**Article 1**

In paragraph (2) of Article 1 of Act LXXVI of 1999 on Copyright (hereinafter referred to as "CRA") the following point p) shall be inserted:

*(All creations of literature, science and art – regardless whether or not specified by this Act – shall fall under copyright protection. Such creations are, in particular:)*

„p) databases qualifying as collections of works.”

**Article 2**

Paragraph (8) of Article 1 of the CRA shall be replaced by the following:

„(8) Performances of performers, producers of phonograms, radio and television organisations, film producers and producers of databases shall enjoy protection specified by this Act.”

**Article 3**

Article 7 of the CRA shall be replaced by the following:

**„Article 7**

(1) A collection shall be protected by copyright, if the selection, arrangement or editing of its contents is of an individual and original nature (collection of works). Copyright protection shall apply to a collection of works even if its parts or elements do not or may not enjoy copyright protection.

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<sup>1</sup> It was adopted by the Hungarian Parliament ("Országgyűlés") on 6 of November 2001 and published by the Hungarian Official Gazette ("Magyar Közlöny") MK 2001/129.sz., p.9034.

(2) Regarding the whole of the collection of works, the copyright shall belong to the editor, however, this shall be without prejudice to the independent rights of the authors of those individual works and of the right-holders of those performances protected by neighbouring rights which were selected for inclusion in the collection.

(3) The copyright protection of a collection of works shall not extend to the elements making up the contents of the collection of works.”

#### **Article 4**

The following Article 60/A shall be added to Chapter VII of the CRA:

#### **„Article 60/A**

(1) For the purposes of this Act, database shall mean a collection of independent works, data or other materials arranged in a systematic or methodical way and individually accessible by electronic or other means.

(2) Provisions applicable to databases shall apply *mutatis mutandis* to the documentation necessary for the operation or consultation of the database.

(3) Provisions applicable to databases shall not apply to computer programs used for the making or operation of databases accessible by electronic means.”

#### **Article 5**

The following paragraph (1) shall be added to Article 61 of the CRA, and paragraphs (1) and (2) thereof shall become paragraphs (2) and (3):

„(1) Databases qualifying as collections of works (Article 7) shall fall under copyright protection.”

## **Article 6**

The following paragraphs (4) and (5) shall be added to Article 62 of the CRA:

„(4) Any provision of a licensing agreement contrary to the provisions of paragraphs (1) and (2) shall be null and void.

(5) Where the copies of the database are acquired in commercial distribution, the obligation to draw up the licensing agreement in writing shall not apply.”

## **Article 7**

Article 84 of the CRA shall be replaced by the following:

### **„Article 84**

(1) The rights covered by this Chapter shall be protected for the following periods of time:

a) phonograms and performances fixed therein, fifty years from the first day of the year following the year in which the phonogram was first put into circulation or for fifty years from the first day of the year following the year in which the fixation of the phonogram was made, if the phonogram was not put into circulation during the latter period;

b) unfixed performances, fifty years from the first day of the year following the year in which the performance was held;

c) broadcast programmes or own programmes transmitted to the public by wire, fifty years from the first day following the year of their first broadcasting or transmission;

d) films, fifty years from the first day of the year following the year in which the film was first put into circulation or for fifty years from the first day of the year following the year in which the fixation of the film was made, if the film was not put into circulation during the latter period.

(2) If the phonogram has not been put into circulation for fifty years from the first day of the year following the year in which the phonogram was made, but it was communicated to the public during this period, the term referred to in point a) of paragraph (1) shall be calculated as a basis from the year following the year in which it was first communicated to the public.

(3) Where the communication of a film to the public precedes its putting into circulation, the term referred to in point d) of paragraph (1) shall be calculated as a basis from the year following the year in which the film was first communicated to the public instead of the year following its first putting into circulation.”

## **Article 8**

(1) The title of Part Three of the CRA shall be replaced by the following:

„RIGHTS RELATED TO COPYRIGHT”

(2) The following Chapter XI/A (Articles 84/A to 84/E) shall be inserted in Part Three of the CRA after Article 84:

„Chapter XI/A

*THE PROTECTION OF PRODUCERS OF DATABASES*

### **Article 84/A**

(1) Unless otherwise provided by this Act, the authorisation of the producer of a database (Article 60/A) shall be sought for where all or a substantial part of the content of the database

a) is reproduced [Article 18 (1) b)] by making copies (hereinafter referred to as “extraction”);

b) is made available to the public by the distribution of copies of the database or, as stipulated in paragraph (8) of Article 26 by communication to the public (hereinafter referred to as “re-utilization”).

(2) Distribution referred to in point b) of paragraph (1) shall mean the following forms of distribution: the putting into circulation by sale or transfer of ownership in any other form, importation into the country with the purpose of putting into circulation, and rental. The provisions of paragraph (5) of Article 23 shall apply *mutatis mutandis* to the rights of the producer of a database.

(3) The authorisation of the producer of a database shall also be sought for the repeated and systematic extraction or re-utilization of insubstantial parts of the contents of the database, if this act would conflict with a normal exploitation of the database or unreasonably prejudice the legitimate interests of the producer of a database.

(4) The uses provided for in paragraphs (1) to (3) shall be subject to remuneration unless otherwise provided by this Act.

(5) The producer of a database shall enjoy the rights referred to in paragraphs (1) to (3) if the obtaining, verification or presentation of the contents of the database involved substantial investment.

(6) The rights referred to in paragraphs (1) to (3) shall belong to such natural or legal persons, or business associations without legal personality who take the initiative, in their own name and at their own risk to produce a database, and provide for the necessary investment.

(7) The producer of a database shall enjoy the rights referred to in paragraphs (1) to (3) irrespective of the eligibility of that database for protection by copyright or any other rights. Moreover, the producer of a database shall enjoy these rights irrespective of the eligibility of the parts or elements of that database for protection by copyright or by other rights.

(8) The rights of the producer of a database are without prejudice to the rights of the authors of individual works included in the database or to other rights existing in respect of certain elements of the contents of the database.

(9) Unless otherwise provided by international agreement, the protection specified by this Act shall belong to producers of a databases, who

a) are of Hungarian nationality or have their habitual residence in Hungary;

b) are legal persons or business associations without legal personality which have been registered in Hungary, and having their registered office, central administration or principal place of business in Hungary.

(10) In the case referred to in point b) of paragraph (9), the legal person or the business association without legal personality having only its registered office in Hungary shall only enjoy the protection specified by this Act, if its operations are genuinely linked on an ongoing basis with the economy of the Republic of Hungary.

#### **Article 84/B**

(1) The authorisation of the producer of a database which is made available to the public shall not be required if a lawful user, even repeatedly and systematically, extracts or re-utilizes insubstantial parts of the contents of a database.

(2) Where the authorisation for use has been obtained only for a part of the database, the provisions of paragraph (1) shall apply only to that part.

(3) A lawful user of a database which is made available to the public may not perform acts which conflict with a normal exploitation of the database or unreasonably prejudice the legitimate interests of the producer of the database.

(4) The provisions contained in paragraphs (1) and (2) shall be without prejudice to the rights of authors of individual works included in the database or to neighbouring rights existing in respect of other elements of the contents of the database.

(5) Any provision of a licensing agreement contrary to the provisions of paragraphs (1) to (4) shall be null and void.

#### **Article 84/C**

(1) The extraction of a substantial part of the contents of a database for private purposes is allowed to anyone to the extent justified by the non-commercial purpose to be achieved. This provision shall not apply to electronic databases.

(2) For the purposes of illustration for teaching or scientific research, extraction of a substantial part of a database is allowed, in a manner and to the extent consistent with such purposes, as long as the source is indicated and to the extent justified by the non-commercial purpose to be achieved.

(3) For the purposes of evidence in judicial or administrative proceedings, extraction or re-utilization of a substantial part of a database is allowed in a manner and to the extent consistent with such purposes.

(4) Article 33 shall apply *mutatis mutandis* to the exceptions to the rights of the producer of a database as stipulated in paragraphs (1) to (3).

#### **Article 84/D**

(1) The rights covered by this Chapter shall be protected for the following periods of time: for fifteen years from the first day of the year following the year in which the database was first made available to the public, or for fifteen years from the first day of the year following the year of the completion of the making of the database, if the database was not made available to the public during the latter period.

(2) The term of protection of the database calculated according to the provisions of paragraph (1) shall recommence if the contents of the database are altered substantially, which results in the altered database being considered to be a substantial new investment in itself. A substantial change of the contents of the database may result from the accumulation of successive additions, deletions or alterations.

#### **Article 84/E**

(1) Paragraph (1) of Article 83 shall apply *mutatis mutandis* to the rights covered by this Chapter.

(2) Where remuneration shall be due to the producer of a database under this Act, the provision on the proportionality rule of the remuneration laid down in the first sentence of paragraph (4) of Article 16, shall apply *mutatis mutandis* to the producer of a database.

(3) Unless otherwise provided by legislation, where any other law or regulation refers to a neighbouring right or neighbouring rights, this shall also mean the right or the rights of the producer of a database, except for acts promulgating international agreements.”

#### **Article 9**

Article 85 of the CRA shall be replaced by the following:

#### **„Article 85**

(1) The collective management of rights shall mean the exercise of authors’ rights, neighbouring rights and rights of producers of a database related to authorial works, performances of performers, phonograms and programmes broadcast or transmitted by wire, as well as performances of film producers and database producers, which are individually non-exercisable due to the character or circumstances of use and therefore exercised through organisations of right-holders established to this end, regardless of whether it is prescribed by law or based on the resolution of right-holders.

(2) Where this Act or any other legislation refers to collective management of neighbouring rights, this shall also mean the collective management of the rights of producers of databases.”

### **Article 10**

The title preceding Article 99 of the CRA, as well as Article 99 of the CRA shall be replaced by the following title and provision:

*„Consequences of the Infringement of Rights Related to Copyright*

### **Article 99**

The provisions of Articles 94 to 97 shall apply *mutatis mutandis* to the infringement of the provisions of Chapters XI and XI/A, as well as to the protection of technical measures and rights management information relating to the rights covered by these Chapters.”

### **Article 11**

The following Article 106/A shall be inserted in Chapter XVI of the CRA after Article 106:

### **„Article 106/A**

The provisions of this Act relating to the copyright protection of editors of databases qualifying as collections of works and to the protection of rights of producers of databases as stipulated in Chapter XI/A, shall be without prejudice to the application of legislative provisions on the protection of personal data and access to data of public interest.”

### **Article 12**

In the CRA the term „databank” shall be replaced by the word „database” in paragraph (1) of Article 19, in the title of Chapter VII and in paragraphs (1) and (2) of Article 62; the expression „in a databank” shall be replaced by the expression „in a database” in paragraph

(1) of Article 19; the expression „to the databank” shall be replaced by the expression „to the database” in paragraph (1) of Article 35, in Article 39, and in paragraphs (2) and (3) of Article 61 as renumbered by Article 5 of this Act; the term „databank” shall be replaced by the term „database” in paragraph (1) of Article 62.

### **Article 13**

(1) This Act shall enter into force on 1 of January 2002; its provisions shall apply to licensing agreements concluded after its entry into force.

(2) The provisions of this Act applicable to the protection of producers of databases shall also apply to databases which were completed before the date of entry into force thereof, but after 31 of December 1982, provided that on the day when this Act enters into force, the database meets the requirements to be eligible for protection in accordance with Chapter XI/A of the CRA, as laid down by paragraph (2) of Article 8 of this Act.

(3) The rights of the producer of a database referred to in paragraph (2) shall enjoy protection from the entry into force of this Act, but only for fifteen years starting from 1 of January 1998.

(4) The use – extraction or re-utilization – of the database referred to in paragraph (2) that commenced prior to the entry into force of this Act, may be continued for one year after the entry into force thereof, but only to an extent existing at the time of the entry into force thereof. The right of such use pursued as a business activity may be transferred only together with the right-holder undertaking or with its organisational unit which pursues such use.

(5) The provisions referred to in paragraph (4) shall apply *mutatis mutandis* even if considerable preparations were made for the use before the day of entry into force of this Act, provided that in such case the use may only be commenced and pursued to the same extent as that of the preparations existing at the time of entry into force of this Act.

(6) For acts pursued on the basis of a licensing agreement concerning the use of a database referred to in paragraph (2), which was concluded before the entry into force of this Act, the

provisions in force at the time of the conclusion of the agreement shall apply, even after the entry into force of this Act.

(7) Paragraph (2) of Article 84 of the CRA, as laid down by Article 7 of this Act, shall not apply to phonograms whose term of protection, as calculated according to the provisions previously in force, has expired. This provision shall be without prejudice to the application of Article 108 of the CRA.

#### **Article 14**

The provisions of this Act are fully compatible with Directive 96/9/EC of the European Parliament and of the Council on the legal protection of databases, in accordance with Article 3 of Act I of 1994 on the promulgation of the Europe Agreement establishing an association between the European Communities and their Member States, of the one part, and the Republic of Hungary, of the other part, signed in Brussels on 16 December 1991.