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Zvláštní právo pořizovatele databáze a výjimka úředního díla

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SUI GENERIS DATABASE RIGHT AND OFFICIAL WORK EXCEPTION

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Official work exception in the Czech law

- Administrative documents are not protected by copyright
- Traditional legal instrument
 - Publicly important documents
- Broad application
 - Sec. 3 letter a) of the Copyright Act
 - Exemplary list
 - May apply to databases protected by copyright
 - Open definition: “*also any other work, where there is public interest in its exclusion from copyright protection*”
- Third party created works – mostly do not fall within the exception

Sui generis database rights

- Protect investment in the database
 - Maker of the database - involved both in the initial organization of the database and its financing
- Condition – “Databaseness”
 - Database
 - Qualitatively or quantitatively a substantial investment in obtaining, verification or presentation of the contents
- Right to extraction and re-utilisation of the content
 - Exception – public database, anyone can extract and re-utilise insubstantial parts of its contents
- Lasts for 15 years
 - A new substantial investment starts a new run of the term
- Grey Literature Repositories - databases

Sui generis rights and official work exception

- Art. 94 of the Copyright Act:
 - “official work exception applies mutatis mutandis to the maker of the database”
 - Open Data amendment of the Copyright Act
- Databases made by public sector bodies (PSB) as a legal duty
 - E.g. database of theses (art. 47b of the act no. 111/1998 Sb., on higher education)
- PSB can provide the whole content without licence of the DB
 - If the content itself is protected by copyright – still applies

Transitional provision

- Reads as:

- “This provision does not apply for the databases protected by sui generis right of the maker of the database, which were obtained before this act came into force.” (1. 1. 2017)

- Protection of existing databases

- Problem:

- Prolonging of protection of existing databases
- Low legal certainty

Thank you for your attention!

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