

Legal framework of Scientific Conduct

14. 12. 2022



Today's programme



--- Copyright and authorship

Which results are covered by copyright?
Authorship and Co-Authorship
Author and his Employer
Plagiarism – difference between scientific plagiarism and copyright plagiarism



---- IP Rights to software

Computer programme as IP, rights to other elements of software
License and right to use the software
Adaptation and De-Compilation of a computer program
Open source software



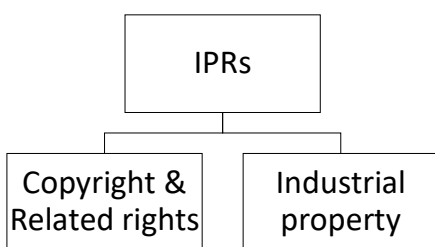
----- Data and database rights

Rights to primary and secondary data
Database as IP
Protection of information

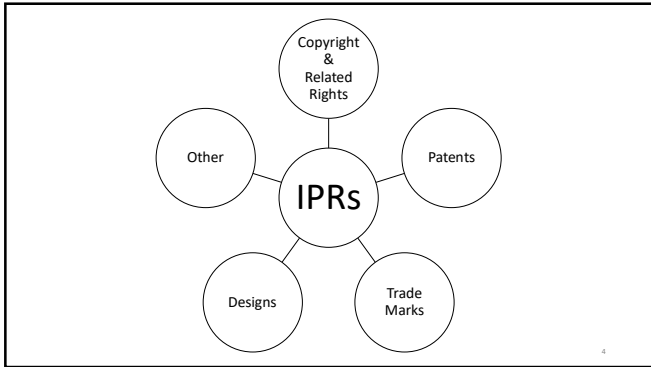


----- General responsibility towards society

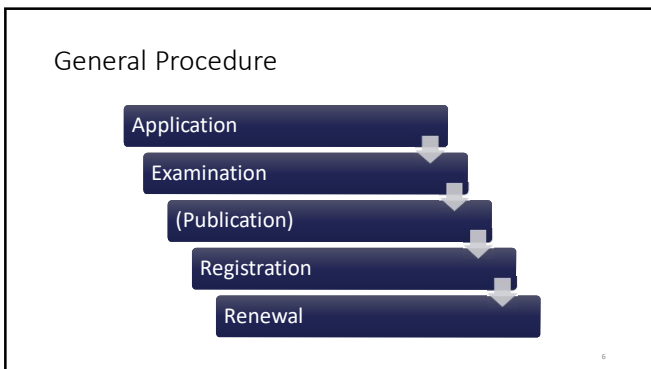
Fundamental human right to knowledge and access to information
Duty to disclose publicly funded research
Open access vs Proprietary means of distribution
Open repositories, Open data, Open Access, Open Source, Public Licenses



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Industrial Property Rights



Types

-  National
-  Regional
-  International

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Life cycle

- Regulation
- Basics
- Requirements for protection
- Grant procedure
- Protection: scope protection & term & exceptions
- Enforcement
- Termination

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Regulation

- Paris Convention for the Protection of Industrial Property (1883)
- Patent Cooperation Treaty (1970)
- Strasbourg Agreement Concerning the International Patent Classification (1971)
- Patent Law Treaty (2000)
- **European Patent Convention (1973)**
 - <http://www.epo.org/law-practice/legal-texts/html/epc/2016/e/index.html>
- Unitary patent package: EU Regulations 1257/2012, 1260/2012 and Council Decision 2011/167/EU

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Basics

- Protection for inventions
 - A technical solution to a technical problem

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Requirements for protection

- Protectable subject-matter
- Novelty
- Inventive step
- Industrial applicability

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Patentable invention (subject matter)

- Inventions solving non-technical problems relying on subject matter void of any technical character are not eligible for a patent.

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A52(1)

European patents shall be granted for any inventions, in all fields of technology, provided that they are

- new,
- involve an inventive step and are
- susceptible of industrial application.

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A52(2)

The following in particular shall not be regarded as inventions within the meaning of paragraph 1:

- (a) discoveries, scientific theories and mathematical methods;
- (b) aesthetic creations;
- (c) schemes, rules and methods for performing mental acts, playing games or doing business, and **programs for computers**;
- (d) presentations of information.

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A52(3)

Paragraph 2 shall exclude the patentability of the subject-matter or activities referred to therein only to the extent to which a European patent application or European patent relates to such subject-matter or activities **as such**.

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Novelty – A54

(1) An invention shall be considered to be new if it does not form part of the state of the art.

(2) The state of the art shall be held to comprise everything made available to the public by means of a written or oral description, by use, or in any other way, before the date of filing of the European patent application.

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Inventive step – A56

An invention shall be considered as involving an inventive step if, having regard to the state of the art, it is not obvious to a person skilled in the art.

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Industrial application – A57

An invention shall be considered as susceptible of industrial application if it can be made or used in any kind of industry, including agriculture.

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Grant procedure

- National
- European Patent (European Patent Convention) – not an EU Patent, international agreement
- Filing, Search, Examination, Grant, Opposition

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Protection: scope protection & term & exceptions

- EPC: bundle of national patents
- A69 EPC – defined by claims
- A64 EPC – *the same rights as would be conferred by a national patent granted in that State*
-
- A3 (Regulation 1257/2012) Unitary patent: unitary effect
 - *limited, transferred or revoked, or lapse, in respect of all the participating Member States*
- A7 (Regulation 1257/2012)
 - *shall be treated in its entirety and in all the participating Member States as a national patent of the participating Member State*

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Protection: scope protection & term & exceptions

- 20 years from filing
- Yearly fees
- Exceptions: experimental & private use (national law)

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Biotech inventions

- [Directive 98/44/EC — legal protection of biotechnological inventions](#)
- *"Inventions which concern a product consisting of, or containing, biological material" or a process for the production of such biological material may be patented if they are new, involve an inventive step and can be applied industrially.*
- *The following are not patentable:*
 - plant and animal varieties
 - essentially biological processes* for producing plants and animals
 - the human body at the various stages of its formation and development.
- *However, an element isolated from the human body or produced by a technical process may be a patentable invention.*
- *Inventions may not be patented where their commercialisation would be immoral or against public order. In particular, the following are not patentable:*
 - processes for cloning human beings
 - processes that modify the human germ line genetic identity
 - use of human embryos for industrial or commercial purposes
 - processes that may cause suffering to animals when modifying their genetic identity."
- Source: <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=LEGISSUM:126026>

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Copyright and Authorship

Copyrighted work

- Unique result
 - Creative element
 - Natural person
- **Creative substance**
-
- Expressed in a way that can be perceived
- **Objective expression**

Copyright

Moral rights to the work

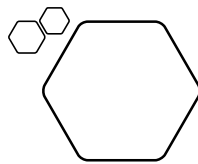
- Part of your „personality“ cannot be sold (in some European countries)
- right to claim authorship
- object to any distortion, modification of, or other derogatory action which would be prejudicial to the author's honor or reputation

Economic rights to the work

- Rights to benefits from your creativity
- Prevent anybody else to use work

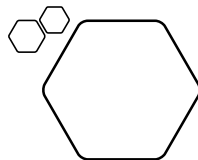
What is copyrighted?

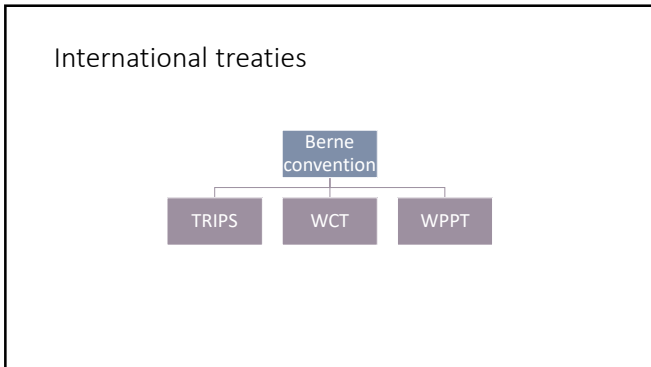
- It really depends on the nation
 - Harmonisation through international treaties
 - Berne Convention, WIPO Copyright treaties, WTO



WIPO gives examples of what is protected in most countries

- literary works (novels, poems, newspaper articles)
- computer programs, databases;
- films, musical compositions, artistic works, drawings, photographs,
- architecture
- advertisements, maps, and technical drawings.





- European framework
- Directive 87/54/EC protection of semiconductor topographies
 - Directive 93/83/EEC satellite and cable
 - Directive 2001/84/EC on the resale right
 - Directive 2006/115/EC on rental right and lending right and on certain rights related to copyright
 - Directive 2011/77/EU on the term of protection of copyright and certain related rights
 - Directive 2012/28/EU on certain permitted uses of orphan works
 - Directive 2009/24/EC on the legal protection of computer programs
 - Directive 96/9/EC on the legal protection of databases
 - Directive 2001/29/EC on the harmonisation of certain aspects of copyright in the Information society
 - Directive 2019/790/EU on copyright and related rights in the Digital Single Market

Authorship

Author

- Originator – the one who gives existence
- Creative input + effort
- If two authors reach the same work independently the Copyright belongs to the first in line (usually).
- One work cannot have two authors, but can have co-authors


Co-Authors VS Collection of works

Co-Authorship means that the contributions to the final result cannot be perceived independently

- Both/all co-authors receive equal rights to the final work



Collection of independent elements does not equal to co-authorship

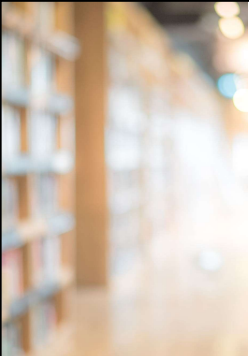
- The person who collects many works can get a separate right to a collection



Collection of works (not co-authorship)

Rights of an employer/investor







-  Employee keeps Moral rights
-  Employer/Investor utilizes Economic rights



Authorship and Plagiarism

Academic and Legal perspective

What cannot be copyrighted

-  Laws of nature (Discovery)
-  Mathematical principles
-  Abstract ideas
-  Scientific theories
-  Factual Information
-  Anything that has not been expressed.

The fundamental difference



COPYRIGHT PROTECTS THE „EXPRESSION“



ETHICS PROTECTS THE „IDEA“

Who is the Author?



ACCORDING TO LAW – THE PERSON WHO WROTE (TYPED) THE TEXT



ACCORDING TO RESEARCH ETHICS- THE PERSON WHO HAD AN IDEA AND CONTRIBUTED EFFORT

What is Plagiarism?



ACCORDING TO LAW USING SOMEONES WORK WITHOUT AUTHORISATION



ACCORDING TO RESEARCH ETHICS- NOT GIVING CREDIT

Citation

Copyright

- Using (unsubstantial) part of someone's work
- It is allowed for research and teaching purposes
- Must be proportionate and not detrimental to the Author's interests

Research ethics

- Giving somebody credit for the contribution on which you build your research

Right to software and computer programs

Module 2

Introduction to

Software

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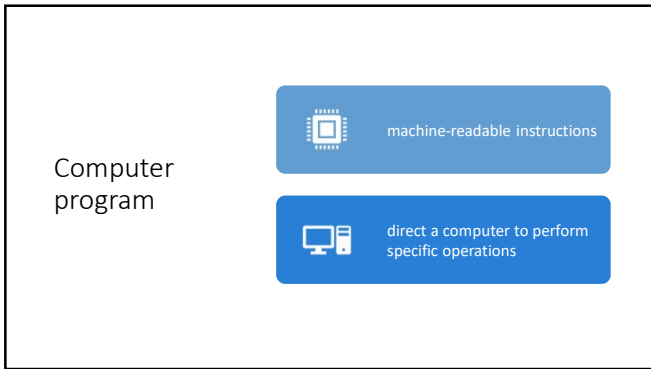
# Open a file for writing
f = open('output.txt', 'w')
# Write the original content
f.write('Hello World!')
# Close the file
f.close()

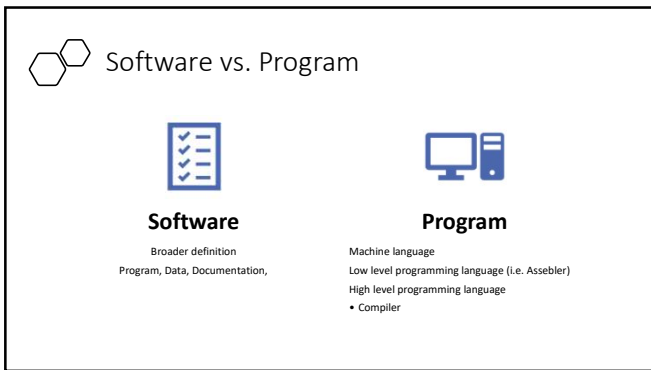
# Open a file for reading
f = open('output.txt', 'r')
# Read the content of the file
content = f.read()
# Print the content
print(content)
# Close the file
f.close()

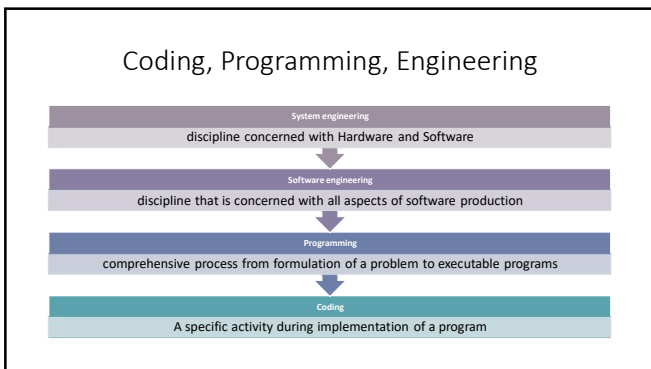
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f.close()

```







Required
Legal tools

What does market need?

What to protect ?

- IDEA
- FUNCTION
- GUI
- BRAND

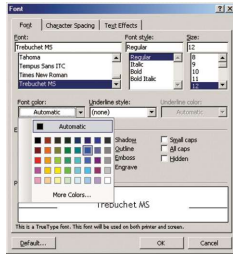
What to protect ?

- IDEA
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What to protect ?

- IDEA
- **FUNCTION**
- GUI
- BRAND



What to protect ?

- IDEA
- **FUNCTION**
- **GUI**
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What to protect ?

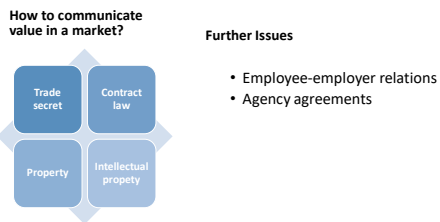
- IDEA
- **FUNCTION**
- GUI
- **BRAND**



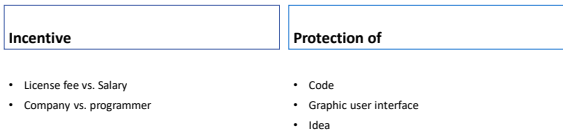
Main objectives:



Software market



Remuneration of software producers



Legal tools for producers

- Copyright
- Patent
- Trade secret
- DRM – software protection tools?
- Other specific IP rights?

Further questions

- Protection of confidentiality and source code
- Software patents
 - Distinction between individual countries
 - EU perspective
- Free software concept and rules
- Practical skills in contract writing EULA, SLA
- Competition law perspective

Software Market

Generic copy/Service in cloud/Individual solution



Software Products

Generic products

Customized products

Four Fundamental activities

```
graph TD; A[Software specification] --> B[Software development]; B --> C[Software validation (testing)]; C --> D[Software evolution (maintenance)];
```

Software specification

Software development

Software validation (testing)

Software evolution (maintenance)

Computer programs
Directive (EU)

computer program

shall include programs in any form:


- generic software
- customized software
- incorporated into hardware
- preparatory design work


Architecture of software
- law does not make this distinction


Platform software


Application software

User Written software

 How is the program protected?

 by copyright,

 as literary works within the Berne Convention

 Applies to expression in any form


Copyright to computer program

What is protected?


YES	No
- the expression of a computer program - Binary Code - Source code	- Ideas - Principles - Logic, - Algorithms - Programming languages

- Originator – the one who gives existence
- Creative input + effort
- If two authors reach the same work independently the Copyright belongs to the first in line (usually).
- One work cannot have two authors, but can have co-authors

Original Work?




A computer program shall be protected if it is original
no tests as to the qualitative or aesthetic merits




Author
Individual
Group
Company

Co-Authors VS Collection of works

 Co-Authorship means that the contributions to the final result cannot be perceived independently

Both/all co-authors receive equal rights to the final work

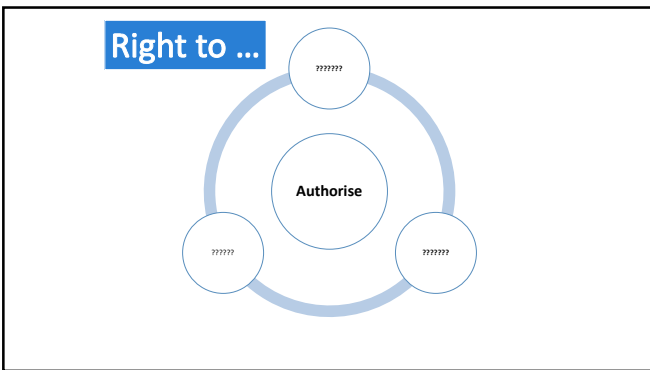
 Collection of independent elements does not equal to co-authorship

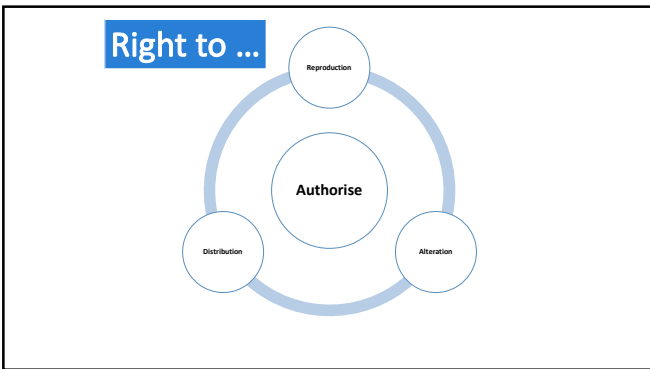
The person who collects many works can get a separate right to a collection

Cooperation – Who owns the work ??

Joint cooperation	• Joint ownership
Collective work	• Usually the leading person
Employee	• Employer

What is the benefit of the authorship to a program?





Rights for geeks – adapting the computer program to your needs

- The unauthorised adaptation is an infringement
 - Exemption - to achieve the interoperability with other program
- Back-up copy is permitted
- Right to observe, study or test the functioning of the program

Decompilation When it is permitted

-  Right to use a copy program
-  Needs it for interoperability
-  It is necessary (not available otherwise)
-  Not for purposes of creating similar product

Decompilation is possible when

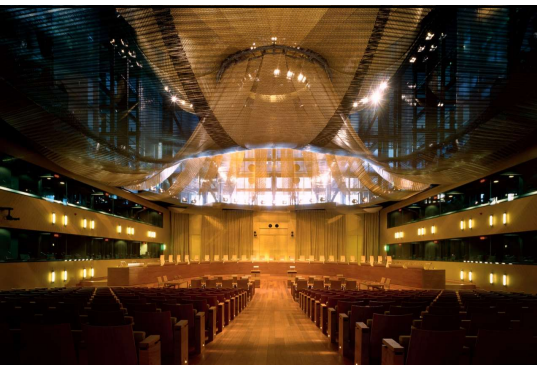
- Right to use a copy program
- Needs it for interoperability
- It is necessary (not available otherwise)
- Not for purposes of creating similar product

Exhaustion of rights

- The first sale in the Community of a copy of a program by the rightholder ... shall exhaust the distribution right within the Community of that copy,
- with the exception of the right to control further rental of the program or a copy thereof.

<http://www.culture.com/nc/copyright/2012/05/04/040512.html>

CASE LAW



SAS software - C-406/10

SAS software - C-406/10

- SAS INSTITUTE
 - developer of analytical software
 - Base SAS – enables users to write their own programs
- WPL
 - Competitor
 - Programmed something identical to Base SAS
 - the same inputs would produce the same outputs
 - Says it is OK to study programme
 - Says it is OK to emulate functionality

Argument of the SAS

- WPL did not have the right to access the source code !
- WPL violated copyrights in manuals
- WPL copied certain „components“ if not the whole program

Court of justice (SAS software)

- to accept that the functionality of a computer program can be protected by copyright would amount to making it possible to monopolise ideas, to the detriment of technological progress
- protection covers only the individual expression of the work and thus leaves other authors the desired latitude to create similar or even identical programs provided that they refrain from copying
- WPL did not make a decompilation, they reproduced functionality

Conclusion no. 1

- Neither the functionality of a computer program nor the programming language and the format of data files used in a computer program ... constitute a form of expression of that program
- and
- as such, are not protected by copyright in computer programs for the purposes of that directive.

CJEU –
Licence to
explore

A licensee is entitled to observe, study or test the functioning of a computer program in order to determine the ideas and principles which underlie any element of the program.

It is enough to have a license to use

Does not need an expressed license to observe, study and test

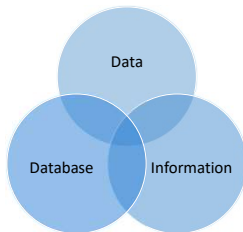
Discussion

- If the functionality is not protected by software (comp. Programme directive), is it protected by something else?

Legal protection of data and databases

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What is the difference



Definície údajov - názov prezentácie / pracovná

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WHO OWNS THE DATA ?

- Is a very inaccurate question
- Ownership is possession of the storage medium
Does not grant the exclusive rights
- Better question is "who owns IP rights to the data"

Define footer - presentation title / department MUN I

IP RIGHTS TO THE DATA

- Database Authorship
Protects creative input to collection of the data
- Sui generis database rights
Protects the investment

Define footer - Name of the presentation / Your name / Unit, Office 92

Database

data base ¹ (n) [ˈtɜːbɪz, ˈdɪːtə] Computer Science
 1. **data base**
 A collection of data arranged for ease and speed of search and retrieval. Also called **data bank**.
 2. **data based** **data based** **data bases**
 To put data into a database.

The American Heritage® Dictionary of the English Language, Fourth Edition copyright ©2003 by Houghton Mifflin Company, published in 2003. Published by <http://www.oxford.com>. All rights reserved.

database (ˈdeɪtə beɪs)
 1. (Computer Science) a systematized collection of data that can be accessed immediately and manipulated by a data-processing system for a specific purpose.
 2. (Communications & Information) any large store of information: a database of knowledge.

<http://www.oxford.com> **Oxford** **Database** **Database** **and** **Database** © Hesse-Golden Publishers 1991, 1994, 1998, 2000, 2001

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DATABASE – legal definition

- 1) Collection of independent elements
- 2) systematically or methodically arranged
- 3) Individually accessed

Definujte zápatí - název prezentace / pracovníků 94

DATABASE AS A
COPYRIGHTED WORK

What about ...





Více než 35 milionů snímků, vektorů a videoklipů


Procházet snímky podle kategorií

- Science
- Technology
- Art
- Architecture
- Business
- Education
- Environment
- Health
- History
- Industry
- Life
- Medical
- Science
- Sports
- Travel
- Weather
- World


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 Awarded by European regulation no 96/9/EC

 The aim was also to safeguard the investment of database makers

 To ensure that the legitimate interests of users of information contained in databases were secured.

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 Creative input

 Sweat of the brow?

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Original

- Enjoy copyright protection
- Have creative element

Non-Original

- Lack creative element
- Require substantive investments to produce
- Need sui generis protection

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What do we protect

Copyright to the database

Sui generis database right

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Scope

This Directive concerns the legal protection of databases in any form.

- Electronic
- Non-electronic

Without prejudice to provisions relating to:

- the legal protection of computer programs;
- rental right, lending right and certain rights related to copyright in the field of intellectual property;
- the term of protection of copyright and certain related rights.

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” ”

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.**

 The copyright protection of databases provided for by this Directive **shall not extend to their contents** and shall **be without prejudice to any rights subsisting in those contents** themselves.

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Author

- The author of a database shall be the **natural person** or group of natural persons **who created the base** or, where the legislation of the Member States so permits, the legal person designated as the rightholder by that legislation.

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expression of the DB protectable by COPYRIGHT

The author of a database shall have the exclusive right to carry out or to authorize:

- temporary or permanent reproduction by any means and in any form, in whole or in part;
- translation, adaptation, arrangement and any other alteration;
- any form of distribution to the public of the database or of copies thereof.
- any communication, display or performance to the public;

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Co-Authorship



Where collective works are recognized by the legislation of a Member State,
the economic rights shall be owned by the person holding the copyright.



In respect of a database created by a group of natural persons jointly,
the exclusive rights shall be owned jointly.

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In addition, with respect to online materials, protected databases include:
(T. Alexander Kley - The European Database Directive In Perspective)

- collections of company registers,
- movie schedules,
- news articles and headlines,
- real estate information,
- job records and markets,
- financial information,
- poems, medical lexicons,
- weblinks,
- ticketing event data,
- advertisements,
- addresses, and sporting event information.
- websites in general, as collections of webpages, are presumptively protected under the Directive so long as there was substantial investment in their content.
- collections of self-help groups,
- public exhibition catalogues,
- collective bargaining agreements, hit music titles, and magazines. F
- inally, in the case of electronic materials, protection may extend to collections of email addresses, demographic information, and map derivations. ADV-Firmenbuch, Austrian Supreme Court (Oberste Gerichtshof) (Apr. 9, 2002).

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Sui generis Rights

NON original databases

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Right for the maker of a database which shows that:

substantial investment

- qualitatively and/or
- quantitatively

in either the:

- obtaining,
- verification or
- presentation of the contents

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Content of the right

prevent extraction • shall mean the permanent or temporary transfer of the contents of a database to another medium by any means or in any form

prevent re-utilization • 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.

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Sui generis right can be exhausted

- 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;

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Difference between original and non-original protection

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Term of protection

Copyright

- Regular copyright

Sui generis right

- fifteen years from the first of January of the year following the date when the database was first **made available to the public** or
- 15 years after the **completion** (if never made public)

What about any update of the database ?

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Commercialization

Sale/transfer	License
<ul style="list-style-type: none">• Only sui generis.	<ul style="list-style-type: none">• Sui generis right• Copyright

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Computer program associated with the database

- Protection under this Directive shall not apply to computer programs used in the making or operation of databases accessible by electronic means.

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Trade secret



Information with commercial value



Protected by law

Employees



Confidential information



Contractual clause

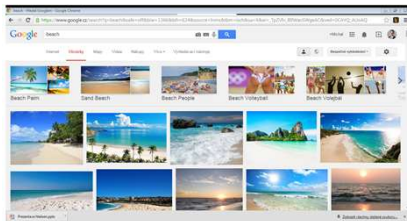


Non disclosure agreement

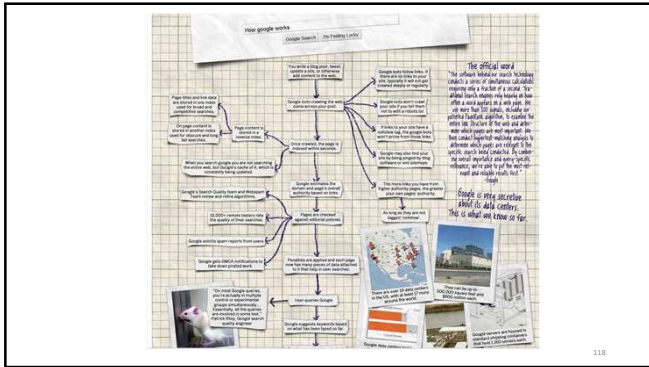
At the beginning of cooperation

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Task no. 1: what is google search?



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EXCEPTIONS

- 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 reutilizing insubstantial parts of its contents, evaluated qualitatively and/or quantitatively, for any purposes whatsoever.

Database and software

Almost every software contains certain database

- Files, libraries, data, fonts, images
- Could be either copyrighted if they are unique and expressed
- Could be protected by sui generis, if they are accompanied by sufficient investment

Future

- Big data applications, data analytics applications

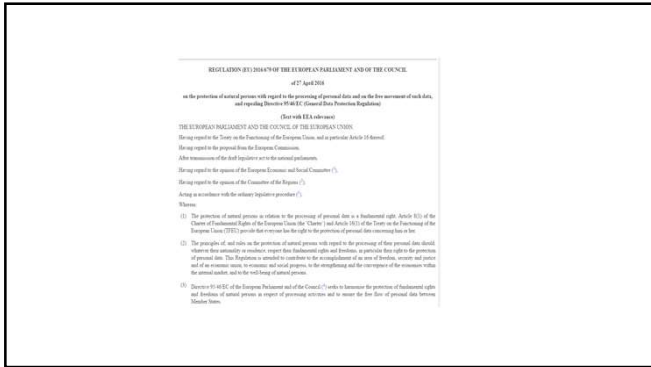
Questions

MUNI

Data Protection and GDPR

Module 4






Basic pillars of regulation

<p>„Old“ (current) directive</p> <ul style="list-style-type: none"> • Broad definition of PD • Title to process PD <ul style="list-style-type: none"> • Consent • Legal entitlement • Triangle of <ul style="list-style-type: none"> • Data subject • Controller • Processor 	<p>„New“ GDPR</p> <ul style="list-style-type: none"> • Even broader definition of PD • Title to process PD <ul style="list-style-type: none"> • Consent • Legal entitlement Triangle of <ul style="list-style-type: none"> • Data subject • Controller • Processor
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Comparison

<p>„Old“ (current) directive</p> <ul style="list-style-type: none"> • 32 Articles • Needs to be adopted by member states 	<p>„New“ GDPR</p> <ul style="list-style-type: none"> • 99 Articles • Direct effect
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From 1995 to 2016 Data protection needed some FACELIFTS but did not change that much

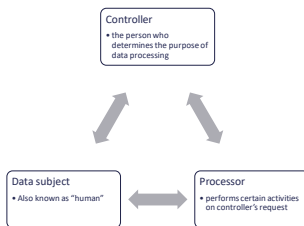
Fire safety analogy?



Definície údajov - názov prezentácie / pracovnice

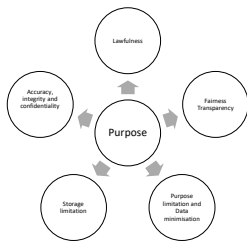
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Principles



Data processor VS data controller

determines the purpose of data processing	performs certain activities
<ul style="list-style-type: none">• One information can be processed by various processors	<ul style="list-style-type: none">• Provides services• Performs only what controller orders



Processing data without consent

- performance of a contract to which the data subject is party
- compliance with a legal obligation of a controller
- in order to protect the vital interests of the data subject or of another natural person
- for the performance of a task carried out in the public interest
- the exercise of official authority vested in the controller
- legitimate interests pursued by the controller

The principle of storage limitation and exception for archiving in public interest

that personal data must not be kept in a form which permits identification of data subjects for no longer than is necessary for the purposes for which the personal data are processed

Exception

- long term processing "solely for archiving purposes in the public interest, scientific or historical research purposes or statistical purposes"
- public repositories are in general entitled to collect, process, store and make available certain personal information, even if that information was not originally created or collected for the purposes of archiving in a repository

Proportionality!

Right to object and right to erasure

Definície údajov - název prezentácie / pracovnice

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Right to object and right to erasure (right to be forgotten)

- he controller shall have the obligation to erase personal data on request, if there are no overriding legitimate grounds for the processing, such as
 - exercising the right of freedom of expression and information
 - compliance with a legal obligation
 - reasons of public interest in the area of public health
 - archiving purposes in the public interest, scientific or historical research purposes

Data protection by design

Old concept, newly defined

The liability starts even before processing takes place

form of good practice of the data controller to design its processes and systems in order to minimize the risks of data protection breaches

The GDPR introduces obligation of the controller to implement appropriate technical and organisational measures to ensure and to be able to demonstrate that processing is performed in accordance with this Regulation

The controller is explicitly required to assess the risks, make plans for the security of the data both at the time of the determination of the means for processing and at the time of the processing itself

Anonymisation, pseudonymisation and profiling

Anonymized

- The key to pseudonyms does not exist

Pseudonymized

- can be de-cyphered and the individual can be tracked and identified
- pseudonymized data is personal data and fall within the scope of the regulation.

Profiling

- automated processing of personal data consisting of the use of personal data to evaluate certain personal aspects

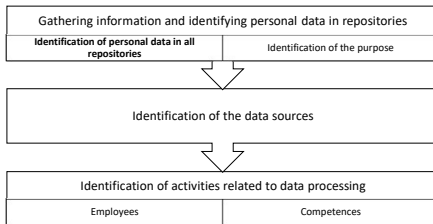
General Data Protection Regulation



CC-BY Creative Commons/Vlněné pro
hořavce užší
Není nutné uvádět zdroj

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Step 1 - Monitoring



Přidáme nové myšlenky, inspirováme
lidi kolem nás

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Step 2 Adopting policies and internal rules

- General data protection policy
- Privacy (transparency) policy
- ... ?

Přidáme nové myšlenky, inspirováme
lidi kolem nás

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Identification of personal data in all Archives/repositories

Přivádíme nové myšlenky, inspirujeme
srdě každým z Vás

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Identification of personal data

- definition of “personal data” is very extensive and covers any information that can be directly or indirectly related to an individual
- data do not have to be structured, in order to be qualified as personal data
- Any information in any media format including photographs, audio and visual records may meet the definition of personal data
- even pseudonymized information is to be considered a personal information.

Převzetí rámec sběru, zpracování,
uchování a užívání výzkumných dat
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Identification of the purpose of processing

- Defined purpose for each set of data is necessary to determine whether the institution does require a consent of a data subject or not.
- The general regulatory principles of purpose limitation, data minimisation or storage limitation are directly related to the purpose of data processing.
- Personal data shall be adequate, relevant and limited to what is necessary in relation to the purposes for which they are processed

Převzetí rámec sběru, zpracování,
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Identification of the purpose of processing

- The purpose of data processing is also crucial in:
 - dealing with the requests for erasure of data or
 - right to restriction of processing.
 - that the purpose needs to be determined at the time of the collection of the personal data
 - changing purpose of the data processing after the data have been collected is limited by GDPR and restricted to several exactly defined cases.

Právní rámec sběru, zpracování,
uchování a užívání výzkumných dat
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Identification of Activities

- Processing of personal data is a daily activity in every public institution or business
- governance of personal data has to be based on the purpose the processed data serve
 - i.e. their value to the organization
- After the personal data have been identified, it is necessary to be attribute each set of records to a certain purpose (or purposes) for which they have been collected and processed.

Právní rámec sběru, zpracování,
uchování a užívání výzkumných dat
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Identification of the data sources

- Anonymous or pseudonymous?
 - Is anonymity absolute or relative?
 - Case C-582/14: Patrick Breyer v Bundesrepublik Deutschland where CJEU ruled that the possibility to combine the data with this additional data must constitute a means likely reasonably to be used to identify the individual

Právní rámec sběru, zpracování,
uchování a užívání výzkumných dat
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Adopting policies and internal rules

- General data protection policy addressing privacy by design and default
- Privacy (transparency) policy

Prinášime nové myšlienky, inšpirujeme
súčasťami

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Data protection by design and default

- Identify major risks
- Keep records
- Identify organizational units that are required to take measures to protect these rights.

Právni rámec sběru, zpracování,
uchování a užívání výzkumných dat
GDPR-2019-05

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Records

- the name and contact details of the controller
- categories of data subjects and of the categories of personal data;
- the categories of recipients to whom the personal data have been or will be disclosed;
- transfers of personal data to a third country or an international organisation, the envisaged time limits for erasure of the different categories of data;
- description of the technical and organisational security measures

Právni rámec sběru, zpracování,
uchování a užívání výzkumných dat
GDPR-2019-05

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Privacy (transparency) policy

- the contact details of the controller and controller's representative;
- the contact details of the data protection officer
- the purposes of the processing;
- the legitimate interests pursued by the controller or by a third party;
- the period for which the personal data will be stored, or criteria used to determine that period;
- the existence of the right to request from the controller access
- information regarding the existence of the right to withdraw consent

Přivítáme nové myšlenky, inspirujeme
sám sebe sama

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Self governance

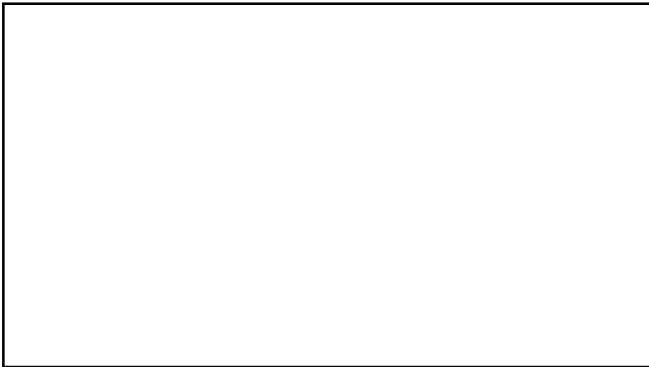
- Codes of conducts (40)
- Certifications (42)
- Binding corporate rules (47)

Definujte sdělosti - název prezentace /
pracovníků

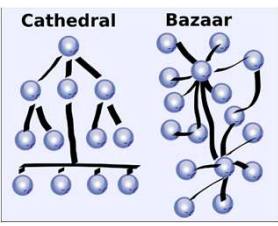
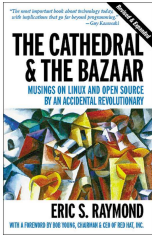
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Module 5

Sharing your work and building on the works of others



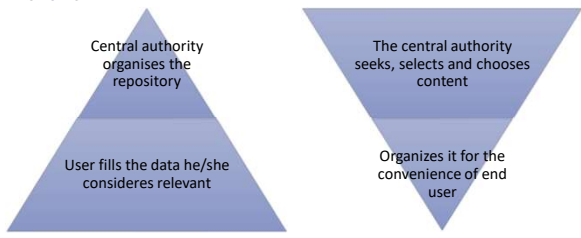
How to share information and knowledge



Cathedral **Bazaar**

The lessons for data-sharing infrastructure

- BOTTOM UP
- TOP DOWN




Central authority organises the repository

User fills the data he/she considers relevant

The central authority seeks, selects and chooses content

Organizes it for the convenience of end user

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Data sharing design and law

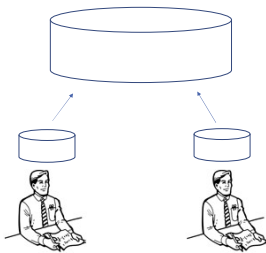
IP law and DP law is predominantly based on the presumption of "top down" design

- It is easy to identify person with responsibility/liability
- It is easy to attribute "ownership"

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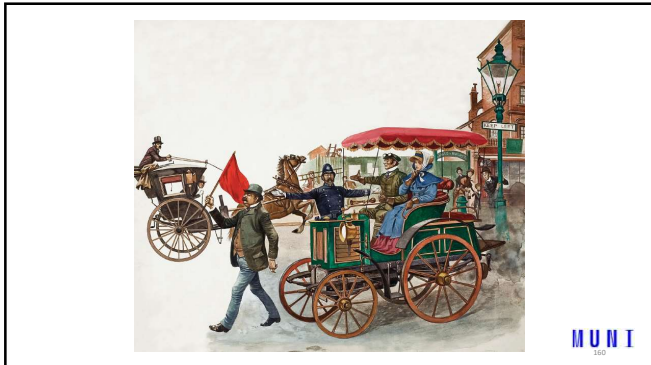


Bottom up approach is a challenge



Possible outcomes

- 1+1=1 – desired outcome – merging two databases into one „joint database “
- 1+1=0 – merging two databases without substantial investment might create dataset without „database right protection“
- 1+1=2 – mere process of merging two databases does not constitute a substantial investment or original element. Therefore the two database rights exist independently
- 1+1=3 – the newly created database gains protection but the two original databases are still protected
- 0+0=1 – ideal situation – the datasets which would not be protected individually are protected as a whole



The emergence of “bottom up” in IT brings us new tools, that we are still learning to use

- Safe harbor regimes
- Codes of conducts
- Free licenses

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Main legal issues in data-sharing

Intellectual property rights

- Authorship of database
- Sui generis database rights
- Rights to primary data (maybe in the future)

Data protection rights, Privacy

- GDPR, general privacy rules

Right to access to information

- Public sector information
- Knowledge rights
- Data-mining exceptions





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Right to know (?) and information access

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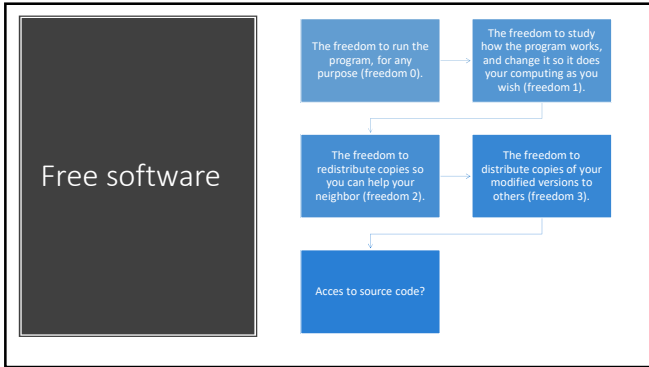
There are other rights that have to be balanced towards "restrictive rights"

-  Freedom of speech
-  Freedom of information
-  Freedom of the arts and sciences
-  Transparency of public sector

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It is not desirable to monopolize rights to mere information.

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 - 3. Derived Works
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