



Evaluation Report Database Directive

ECS – Brussels, 25/05/2018

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Context of the Evaluation of the Database Directive

- The Evaluation Report on the Database Directive: published on the 25th of April as part of the third data package
- The purpose of this evaluation: to assess whether the Database Directive remains fit for purpose in the new legal, economic and technological environment.





Context of the Evaluation of the Database Directive

- Public consultation: 24 May-30 August 2017
- Supporting study for the EC evaluation (JIIP)
- Synopsis on all consultations activities (done by the EC and the contractor) – published on 25th of April





Main findings of the EC Evaluation Report

- EC Evaluation Report: in line with the "Better Regulation" guidelines (effectiveness, efficiency, relevance, coherence and EU added-value)
- The main purposes of this evaluation :
 - to assess whether the conclusions of the 2005 evaluation are still valid,
 - and to situate the analysis in the context of the data economy.





Main findings of the EC Evaluation Report

Similar to the previous evaluation, the analysis shows that:

- the Database Directive has effectively harmonised the existing national protection regimes
- the *sui generis* right continues to have no proven impact on the production of databases
- the limited scope of protection ensures a relatively appropriate balance between rights and interests of database makers and users





Main findings of the EC Evaluation Report

- Besides, the evaluation points out that, due to the limited scope of the *sui generis* right (2004 CJEU decisions), it is assumed that the *sui generis* right does not apply to the data economy (machine-generated data, IoT devices, big data, AI, etc) and only covers databases that contain data obtained from external sources
- This limited scope provides for a relatively efficient situation.





Main findings of the EC Evaluation Report

- However, the report concludes that this relationship needs a more continuous monitoring.





Main findings of the EC Evaluation Report

Relationship between the Database and the PSI directives

- There is an overall coherence between the Database and the PSI Directives.
- Indeed, the *sui generis* right has been invoked by public entities to prevent the re-use of data prescribed by the PSI Directive (court cases and various instances reported by practitioners)
- To bring more clarity, a new article and a related recital have been inserted in the context of the review of the PSI directive





Thank you !

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