

The New Trade Secret Protection Act

Highlights

What is a Trade Secret?

Information is protected as a trade secret (know-how, technology and business information) if:



Various assets could be protected as trade secrets by which a business can obtain an economic advantage, for example:

- Business methods
- Process know-how and technology
- Computer programs and databases
- Financial, accounting information
- Business planning, marketing, purchasing and customer information
- Drawings, laboratory notebooks, test data, training manuals, formulas, recipes, etc.
- Personnel information
- Business relationships
- Unique products, future product designs/models and research projects
- Manufacturing techniques/ methods

By shaping properly their trade secret compliance strategy companies may in a cost-efficient way and for a long period protect their valuable assets.

Legal Framework

A minimum standard for protection across the EU is set up by the Directive (EU) 2016/943 of the European Parliament and of the Council of 8 June 2016 on the protection of undisclosed know-how and business information (trade secrets) against their unlawful acquisition, use and disclosure.

The Directive has been implemented in the new Bulgarian Trade Secret Protection Act, which was promulgated on 5 April 2019. The new legislation governs the protection of trade secrets in civil lawsuits.

What business can do to keep its trade secrets?

In protecting their trade secrets companies should consider various legal and risk management aspects including with respect to preparation of internal policies, implementing security, organizational and technological measures, performing business impact assessment, documents drafting, training, court proceedings.

One of the pre-requisites for a successful court claim as per the new law is undertaking appropriate protection measures in advance. Such measures are for example:

- Identification of trade secrets in the company
- Implementation of company confidentiality policy
- Employees training
- Employees activity monitoring
- Introduction of technical measures for protection
- Non-disclosure, non-compete, non-solicitation agreements/ clauses – when drafting such, specifics of Bulgarian legislation and court practice with respect to their validity and enforceability should be considered

The new law supplements the existing legal remedies under the Competition Protection

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