



**COUNCIL OF  
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## **New EU framework for protection of trade secrets**

The Council today agreed on a general approach<sup>1</sup> for establishing a new legal framework for the protection of trade secrets ([9870/14](#)).

The new framework aims at making it easier for national courts to deal with the misappropriation of confidential business information, remove the trade secret infringing products from the market and make it easier for victims to receive compensation for illegal actions.

The president-in-office of the Competitiveness Council, the Greek Vice Minister of Development and Competitiveness Notis Mitarachi, made the following comments:

“Today, we have decided on a single, clear and coherent legal regime protecting against misappropriation of trade secrets in EU Member States. This decision will promote innovative companies, ensure fair and honest competition and create a secure environment conducting to innovation, the exchange of valuable know-how and cross-border commercial activities within the internal market. This will empower companies to continue investing with more confidence in research and innovation in Europe.”

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<sup>1</sup> The general approach, which sets the Council common position on a draft directive, paves the way to start negotiations with the European Parliament with a view to reaching an agreement at first reading. The European Parliament has not delivered its opinion yet.

# **P R E S S**

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Under the agreement, the new framework would include the following main features:

- a minimum harmonisation of the different civil law regimes, whilst allowing member states to apply stricter rules;
- the establishment of common principles, definitions and safeguards, in line with international agreements, as well as the measures, procedures and remedies that should be made available for the purpose of civil law redress;
- a limitation period of six years for claims or bringing actions before courts;
- the preservation of confidentiality in the course of legal proceedings, while ensuring that the rights of the parties involved in a trade secret litigation case are not undermined;
- the establishment of a favourable regime to employees in what concerns their liability for damages in case of violation of a trade secret if acting without intent.

Businesses, irrespective of their size, value trade secrets as much as patents and other forms of intellectual property right and use confidentiality as a business competitiveness and research innovation management tool. They cover a diversified range of information, which extends beyond technological knowledge to commercial data such as information on customers and suppliers, business plans or market research and strategies.

Trade secrets have an important role in protecting the exchange of knowledge between businesses and research institutions within and across the borders of the internal market in the context of research and development and innovation.

In order to promote fair competitiveness and an innovative business environment, restrictions to the use of trade secrets are justified in cases where the relevant know-how of information has been obtained from the trade secret holder against its will through dishonest means. The assessment of whether and to what extent such restrictions are necessary is subject, on a case-by-case basis, to judicial control.

To this end, the Commission submitted, on 28 November 2013, the draft directive regarding the protection of trade secrets against their unlawful acquisition, use and disclosure, within the context of the strategy for the development of the single market for intellectual property ([17392/13](#)).

The new provisions would come into force, at the latest, one year after the final adoption of the directive.