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## Cyprus enacts trade secrets protection legislation

**Cyprus** | January 11 2021

With much delay, Cyprus has transposed Directive (EU) [2016/943](#)— protection of undisclosed know-how and business information (trade secrets) against their unlawful acquisition, use and disclosure

### *Trade secrets and lawful acquisition*

Trade secret means information that:

- ▶ is secret in the sense that it is not generally known among or readily accessible to persons within the circles that normally deal with the kind of information in question (as a body or in the precise configuration and assembly of its components)
- ▶ has commercial value because it is secret
- ▶ has been subject to reasonable steps under the circumstances, by the person lawfully in control of the information, to keep it secret.

Acquiring a trade secret is considered lawful if it is obtained by:

- ▶ independent discovery or creation
- ▶ observation, study, disassembly or testing of a product or object that has been made available to the public or that is lawfully in the possession of the acquirer of the information who is not legally required to restrict the acquisition of the trade secret
- ▶ exercise of the right of workers or workers' representatives to information and consultation under EU law and national laws and practices
- ▶ any other practice which, under the circumstances, conforms with honest business practices.
- ▶ when required or allowed by law.

### *Unlawful acquisition of trade secrets*

Unlawfully acquiring a trade secret will be the result of the following actions:

- unauthorised access, stealing or copying of documents, objects, materials, substances or electronic files which are lawfully under the control of the trade secret holders
- any other conduct which, under the circumstances, is considered contrary to honest business practices.

Use or disclosure of the trade secret without the owner's consent is unlawful if a person:

- acquires the trade secret unlawfully
- is in breach of a confidentiality agreement / non-disclosure agreement or other requirement not to disclose the trade secret

- is in breach of a contractual or other duty to limit the use of the trade secret
- knew or ought to have known that the trade secret had been obtained directly or indirectly from another person who was using or disclosing the trade secret unlawfully.

### ***Exceptions and whistleblowing***

Certain exceptions are provided under applicable legislation, such as the following: 2

- exercising the right to freedom of expression and information, including respect for the freedom and pluralism of the media
- revealing misconduct, wrongdoing or illegal activity, provided that it was to protect the general public interest
- disclosure by workers to their representatives (provided that such disclosure was necessary f to carry out their function)
- protecting a legitimate interest recognised law.

As such, persons acting in the public interest, will be safeguarded when disclosing a trade secret to reveal misconduct, wrongdoing or illegal activity. This safeguard is operative if the trade secret was acquired or passed to the whistle-blower through the use of illicit means such as the breach of law or contract. If no unlawful conduct takes place the disclosure of the trade secret is out of the scope of the trade secrets legislation and no safeguards are necessary.

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