

LEGAL PROTECTION OF TRADE SECRETS IN UKRAINE

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Problem Statement. Trade secrets play a crucial role in business by protecting valuable information. In Ukraine, the legal protection of trade secrets significantly improved with the adoption of the Law of Ukraine "On Protection Against Unfair Competition" in 1996. However, defining trade secrets, preventing leaks, and enforcing legal protections remain difficult, which requires further improvements in legislation.

Objectives. The aim of this article is to analyze the current legal framework for trade secret protection in Ukraine. It will focus on key legislative acts such as the Civil Code of Ukraine, the Law of Ukraine "On Protection Against Unfair Competition," and international agreements like the TRIPS Agreement and EU Directive 2016/943. The study will also:

- examine the most common causes of information leaks;
- explore international practices in trade secret protection;
- propose recommendations for improving the legal framework.

Methods. Trade secrets are defined in Ukraine under Article 505 of the Civil Code as “confidential business information that has commercial value, is not publicly available, and is subject to protective measures by its owner”. The TRIPS Agreement and EU Directive 2016/943 establish similar criteria for trade secrets. They put an emphasis on secrecy and security measures. For information to qualify as a trade secret, companies must take reasonable steps to ensure confidentiality and to prevent unauthorized disclosure.

One of the main threats to trade secrets is information leakage which can occur through several means, such as cyber-attacks, corporate espionage, inadequate internal security policies or unauthorized disclosure. The latter is considered to be the most common way of information leakage. Its methods include verbal or written communication, email leaks and loss of confidential documents. To prevent leaks, companies must implement strict security policies, including:

- Confidentiality agreements (NDAs);
- Limited access to confidential information based on job responsibilities;
- Data encryption;
- Regular audits and security training programs;
- Implementing monitoring systems;
- Creating incident response plans to reduce damage in case of a leak;
- Implementing multi-factor authentication (MFA) etc.

Ukrainian legislation holds individuals and organizations accountable for unauthorized access, disclosure, or use of trade secrets. Penalties vary from fines to legal liability for damages. Despite these measures, enforcement remains a significant issue in Ukraine due to inconsistent legal interpretations and insufficient penalties for violations. Unlike some developed countries, Ukrainian judicial practice in trade secret cases is underdeveloped, making it difficult for companies to claim damages and to prove their claims in court.

In contrast, a lot of developed countries have adopted trade secret laws that provide stronger protection mechanisms. For example, in the United States, the Defend Trade Secrets Act (2016) allows businesses to file federal lawsuits against misappropriation. In the European Union, companies use unified standards under Directive 2016/943, which strengthens the legal framework for trade secret protection and enforcement. Some countries, such as Germany and Japan, have introduced more strict penalties for trade secret violations, making it easier for businesses to seek legal remedies. In addition, multinational corporations often implement advanced cybersecurity measures, such as biometric authentication and AI-powered monitoring.

Additionally, trade secrets are protected under the TRIPS Agreement, which stands for Agreement on Trade-Related Aspects of Intellectual Property Rights. It sets common standards for identifying, preserving, and enforcing trade secret rights. These legal instruments emphasize the necessity of maintaining the confidentiality of commercial information through security measures.

Conclusion. Trade secret protection is essential for fostering innovation and maintaining business competitiveness. While Ukraine has made progress in regulating this area, there are still some challenges in defining trade secrets, preventing leaks, and ensuring effective legal enforcement.

To address existing problems, Ukraine should consider:

- implementing a standardized framework for trade secret classification;
- improving judicial practices;
- strengthening trade secret laws;
- increasing penalties for unauthorized disclosure;
- encouraging collaboration between businesses and cybersecurity firms;
- raising awareness among businesses about best international practices for protecting trade secrets.

By addressing legal gaps and implementing stronger enforcement mechanisms, Ukraine can create a more secure business environment that encourages investment and increases economic stability.

References:

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DEMOCRACY THROUGH LAW AND ITS IMPORTANCE HISTORICAL FOUNDATIONS OF LEGAL DEMOCRACY THE RULE OF LAW AS A PILLAR OF DEMOCRACY

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The development of a democratic society is a complex and multifaceted process that relies on legal frameworks to ensure transparency, accountability, and the protection of human rights. Democracy through law emphasizes the role of legal institutions in shaping political structures and promoting civic participation. This concept underscores the idea that democratic principles should be embedded in legal norms to guarantee equal rights, fair elections, and public trust in governance.

The principle of democracy through law dates back to the ideas of ancient Greece and Rome, where early democratic governance relied on written codes and citizen participation. The Magna Carta (1215) established the foundation for constitutional governance, while the Enlightenment era introduced concepts of legal equality and separation of powers. In the modern era, the Universal Declaration of Human Rights (1948) and the European Convention on Human Rights (1950) have reinforced the role of law in democratic governance.

One of the fundamental aspects of democratic development is the rule of law, which ensures that all citizens are subject to the same legal standards. A strong legal system fosters stability, prevents corruption, and promotes public trust in government institutions. Countries that have successfully implemented democratic governance often exhibit a robust judiciary, independent regulatory bodies, and effective law enforcement mechanisms. The effectiveness of the rule of law depends on constitutional protections, impartial courts, and accessible legal recourse for all citizens.

Despite significant progress, modern democratic societies still face numerous challenges. Among them is legal populism that is the rise of political movements that exploit legal loopholes to undermine democratic institutions. Some leaders manipulate legal frameworks to extend their power, weakening democratic norms.

Political interference in the judiciary also weakens legal protections and limits impartial decision-making, leading to biased rulings and restricted human rights.