The new Law 4605/2019 establishes for the first time a coherent and efficient national framework on the legal protection of trade secrets against their unlawful acquisition, use or disclosure by third parties.


The new Law allows for the protection of know-how and business information, which cannot be protected under intellectual property law, such as early stage inventions, software source code, business methods, customers’ and suppliers’ lists, recipes, market survey results, product prices, market launch dates etc.
Definitions
“Trade Secrets” are defined as information which meets all the following conditions:
> is not generally known to the public or among persons within the circles that normally deal with the kind of information in question;
> has commercial value;
> has been subject to reasonable steps by the person lawfully in control of the information, to keep it secret;

Lawful Use of Trade Secrets by Third Parties
The right on trade secrets is not of absolute nature. Acquisition, use or disclosure of a trade secret by third parties may be considered lawful, provided that it (a) is an independent discovery or invention; (b) is the result of observing, studying, dismantling or testing a product or item which has been marketing or is lawfully possessed by the recipient of the information; (c) is disclosed by employees or their representatives as part of the legitimate exercise of their right to information and consultation; (d) is in accordance with the prevalent honest commercial practices or (e) is prescribed or authorized by Union or national law.

Unlawful Use of Trade Secrets by Third Parties
Conversely, acquisition of a trade secret is considered unlawful, whenever carried out by: (a) unauthorised access to the relevant information or (b) any other conduct which is considered contrary to honest commercial practices.

Furthermore, the use or disclosure of a trade secret shall be considered unlawful whenever carried out, without the consent of the trade secret holder, by a person who is found to meet any of the following conditions: (a) having acquired the trade secret unlawfully; (b) being in breach of a confidentiality agreement or any other duty not to disclose the trade secret; (c) being in breach of a contractual or any other duty to limit the use of the trade secret.

The production, offering or placing on the market of infringing goods, or the importation, export or storage of infringing goods shall also be considered as an unlawful use of a trade secret, where the person carrying out such activities knew, or ought, under the circumstances, to have known that the trade secret was used unlawfully.

Injunctions
The holder of the trade secret which is unlawfully acquired or used may apply for the following injunctions in the context of preliminary or main proceedings:
> demonstration of evidence of proof pertaining to the infringement;
> cessation of or prohibition of the use or disclosure of the trade secret;
> prohibition of the production, importation, export, placing on the market, storage or use of infringing goods;
> destruction or delivery up to the trade secret holder of the item where the trade secret is unlawfully incorporated;
> seizure or delivery to the trade secret holder as well as recall from the market or destruction of the infringing goods or depriving the infringing goods of their infringing quality;
> compensation for damages and non-material harm.

Interim injunctions may be subject to the provision of a financial guarantee by the applicant. In addition, in case that injunctions are sought abusively or in bad faith, the defendant may request for compensation for infringement of his/her personality rights. The period of limitation of the aforementioned actions is five (5) years after the respondent became aware of the infringement or the damage.