

## NEW EU FRAMEWORK FOR THE PROTECTION OF TRADE SECRETS

EU Council agreed on 26 May 2014

The Council adopted the general approach for establishing a new legal framework for the protection of trade secrets.

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

### THE NEW PROVISIONS WOULD COME INTO FORCE, AT THE LATEST, ONE YEAR AFTER THE FINAL ADOPTION OF THE DIRECTIVE.

receive compensation for illegal actions. This will empower companies to continue investing with more confidence in research and innovation in Europe. 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.

## ALSO IN THIS REPORT

[VAT and the destination principle](#)

[Intergovernmental agreement on bank resolution fund](#)

[First removal requests coming to Google after the ECJ ruling](#)

[New ECB measures to ease credit constraints on small businesses and intensify preparatory work on securitized loans purchase](#)

## VAT : EXPERT GROUP REJECTS GOOGLE TAX AND CALLS FOR DESTINATION PRINCIPLE

There should no specific tax regime for online companies, experts told the European Commission, dealing a blow to supporters of an EU-wide "Google Tax," targeted at the digital sector. Retailers such as Amazon should also pay VAT in the countries they deliver to rather than where they are headquartered, the report by the Commission Expert Group on Taxation of the Digital Economy said. The report, written by experts led by former Portuguese Finance Minister Vítor Gaspar, is an influential paper on the future direction of EU taxation policy.

Countries such as France and Spain have called for an overhaul of the tax framework to prevent multinational online companies like Google or Facebook taking advantage of loopholes to pay less tax. An EU-wide levy would make that more difficult.

But the experts said existing general rules for corporate taxation should be applied to digital companies to ensure they are treated in the same way as other businesses. Separating the digital and traditional economy no longer makes sense, as the Internet has become integral to many businesses.

The EU should speak with one voice on the project, but, in order to achieve this, it would be necessary for member states to agree on a common position. Tax Commissioner Algirdas Šemeta said, "The EU must throw its full collective weight behind international efforts to clamp down on tax avoidance. Member states must speak with one voice."

As of January 2015, the destination principle will come into force for digital goods and services, which includes music and film downloads, provided within the EU. It already exists for non-EU supplied digital goods. A

"One Stop Shop" web portal will be rolled out to ensure the correct tax is paid in the right member state. The experts called for the destination principle to be rolled out across the EU, and across all business to consumer goods and services, whether online or not, and for that to be supported by a broader one shop stop. That would represent a huge change in European taxation.

The expert group was appointed by the Commission five months ago, to inform their decision-making. An impact assessment will also be published this year. It will be up to the next Commission to propose legislation on the issue, which will be debated by the European Parliament and Council of Ministers. Both those institutions can and will amend the legislation before it becomes law.

## INTERGOVERNMENTAL AGREEMENT ON BANK RESOLUTION FUND

Representatives of EU member states (except Sweden and UK) signed on 21 May 2014 an intergovernmental agreement on the transfer and mutualisation of contributions to a single resolution fund that will be established as part of Europe's banking union.

The agreement will complement a regulation recently agreed with the European Parliament on the creation of a single resolution mechanism (SRM), which establishes the fund and also features a central decision-making board. The single resolution fund will be fully financed by bank contributions.

The SRM is aimed at ensuring the orderly resolution of failing banks without recourse to taxpayers' money. This will involve both a systematic recourse to the bail-in of shareholders and creditors, in line with a directive on bank recovery and resolution adopted earlier this year, and the possible recourse to the single resolution fund (SRF).

Under the intergovernmental agreement (IGA) signed today, the fund will be built up over eight years, reaching a target level of at least 1% of the amount of covered deposits of all credit institutions authorized in all the participating member states. It

is estimated that this will amount to about €55bn.

Under the agreement, contributions by banks raised at national level will be transferred to the SRF, which will initially consist of compartments corresponding to each contracting party. These will be gradually merged over the eight-year transitional phase. This mutualisation of paid-in funds will be front-loaded, starting with 40% in the first year and a further 20% in the second year, and continuously increasing by equal amounts over the subsequent six years until the SRF is fully mutualized.

To access the agreement, click [here](#)

## FIRST REMOVAL REQUESTS COMING TO GOOGLE AFTER THE ECJ RULING

On 13 May, the European Court of Justice adopted a very important ruling, soon nicknamed [the "right to be forgotten" ruling](#), in which it states that an individual can request Google to remove search results about him that are outdated and irrelevant, paving the way to a de facto recognition of the EU still debated right to be forgotten. One day after, Google had

already received more than 10 000 removal requests and the search engine has now put in place a removal request form asking individuals to substantiate why they want some search results on their name to be removed from Google's listings. Bing also said they were expecting similar removal requests to come and were working on a system to offer EU citizens the possibility to

ask for removals. Unsurprisingly, this new ruling has already paved the way for the emergence of new business models, with the company Reputation VIP launching Forget.me an online service that appears to be the first designed specifically to help individuals' complete Google link removal request forms.

## NEW ECB MEASURES TO EASE CREDIT CONSTRAINTS ON SMALL BUSINESSES AND INTENSIFY PREPARATORY WORK ON SECURITIZED LOANS PURCHASE

On 5 June 2014, the European Central Bank (ECB) unveiled a package supporting lending to the real economy in the Eurozone. The ECB measures entail proposals to conduct targeted longer-term refinancing operations (TLTROs) aimed at improving bank lending to non-financial private sector in the Eurozone, excluding loans to households for house purchases over a window of two years, and to intensify preparatory work related to outright purchases of asset-backed securities (ABS). The ECB proposals will offer banks cheap medium-term

liquidity proportionate to their levels of lending to the real economy. This principle is supported by accountants in Europe as long as it was weighted in favor of SMEs and had clearly excluded mortgages. Experts expect that it will lead to a revival in lending in peripheral countries in particular, where banks still face liquidity issues. This implies that the new mechanism should be accompanied by strict monitoring to ensure it does not encourage a vicious cycle of dependence on cheap liquidity, irresponsible lending, and further

dependence. Coupled with the EIB's new SME ABS initiative, whereby the EIB invests in similar assets, this could help revive the securitisation market in Europe. Yves Mersch, chairman of the ECB executive Board also unveiled additional information on the ECB plans for ABS and securitisation markets in a [speech](#) given at the IMN Global ABS Conference on 11 June 2014, calling inter alia for enhanced transparency and standardization requirements for ABS products and for fair treatment of ABS products by credit rating agencies.

## FEBIS– Federation of Business Information Services

Benefiting from the opening of markets within Europe and overseas, world-wide business has experienced substantial growth. As business grows so does the demand for business information, in particular, intelligence for cross-border business activities.

In 1973, leading European credit information agencies joined forces to form the Federation of Business Information Services FEBIS (initially known as FECRO), with its registered office in Frankfurt. Today, FEBIS has developed into a sizable organization comprising more than 60 full Members from all over the world involved in providing Business Information and Debt Collection services of National and International importance.

Supported by a combined workforce of more than 20,000 staff, FEBIS Members generate over 180 million Business Information and Consumer reports annually for over 500,000 organizations, providing these clients with invaluable business support. Aggregate sales turnover of FEBIS Members is in excess of €2.5 Billion.

As the industry association, FEBIS strives to look after common interests of its members. While monitoring new legislation like data protection laws and insolvency laws, FEBIS also oversees and the application of public sources and information.