

## SUMMARY

**Subject matter:** The Right to protect official and commercial secrets under the legislation of the Russian Federation

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**The relevance of the research topic:** The recognition, observance and protection of human and civil rights and freedoms is impossible without an accurate understanding of the essence of the rights and freedoms established by the Constitution of Russia. The meaning of legal claims laid down by the legislator in the text of a legal norm must be interpreted equally by the Executive and judicial authorities. Ambiguity in the interpretation of the content of human and civil rights and freedoms is caused, on the one hand, by the imperfection of the normative text, and, on the other, by the lack of clear scientific developments that smooth out normative contradictions.

Among the state reforms currently being carried out in the Russian Federation, an important place is occupied by the development of legislative foundations for new relations between the power structures of the state and the individual as a subject of law. A variety of such new and dynamically developing relations is the implementation of the constitutional right to information. The development of information technology in recent years has increasingly contributed to the development of legislation in this area of relations, and the policy of information disclosure is becoming one of the priority areas of activity.

Commercial and official secrets as a type of information about the company's activities, is experiencing a new era associated with the awareness of importance and special value. This is confirmed by an active scientific interest in commercial and official secrets as an object of research.

Today, the protection of business and official secrets is one of the most pressing issues in the rapidly developing it community. Cases of espionage, including commercial espionage, are growing year after year. Competitors, having received information about production secrets, the latest scientific developments, plans of other organizations, information that is an official secret, can use it to gain a competitive advantage, launch similar products, or directly influence the success of their competitors. If the protection of business secrets has long been successfully carried out by traditional methods, the end of the 20th century and the beginning of the 21st were marked by rapid increase in the volume of incoming information, improving media technology and information processing. A considerable part of information in electronic format, using local and global networks has created a qualitatively new threats to privacy. This increased scientific interest in the study of this subject area.

The purpose of the work: to analyze the right to protect official and commercial secrets under the legislation of the Russian Federation.

**Objective:**

- consider the basics of legal regulation of the Institute of commercial and official secrets;
- identify the essence and signs of official secrets;
- describe the nature and characteristics of trade secrets;
- to study measures for the protection of information constituting a commercial secret;
- investigate measures of responsibility for violations in the field of trade secrets;
- analyze issues of protecting the rights of holders of trade secrets;
- determine measures to protect confidential information that is an official secret;
- to consider the specifics of responsibility for offenses in the field of official secrets.

**The theoretical and practical significance of the research** results is in the possibility of using its main provisions and conclusions as a basis for more specific scientific research on the problems and issues raised in this work/

**Results of the study:**

1.To solve the problem of the relationship between different types of secrets and eliminate a number of loopholes in the legislation, it is necessary to adopt the federal law on confidential information. The law should clearly define the concept of confidential information and the list of

confidential information, reflect the basic principles of legal regulation of information confidentiality, requirements, procedure, organization of work with documents, protection system for all types of confidential information, solving problems of confidential information management, financial measures for its protection, state control and supervision in the field of compliance with the rights to protect commercial and official secrets.

2. It seems that to deal with uncertainty in the practice of the Antimonopoly authority in determining the legality of the expert knowledge of the materials of the case on violation of Antimonopoly legislation, containing the information constituting a commercial secret, without the consent of the owner of part 5 of article 42.1 of the Law on protection of competition may be supplemented by the following paragraphs: the expert, with the permission of the Commission, has the right to familiarize with the case materials that contain information constituting a secret protected by the law, in the amount required for examination.

The expert has no right to disclose information that he knows in connection with the examination, including information that is a state, commercial or other secret protected by law.

3. Considering the specific details of regulation of labor relations, the output of a conflicting situation with the application of the rules on civil liability of employees for disclosure of trade secrets is to establish exceptions to the General rule for the recovery of direct actual damages from the employee and establishment in the labor code the possibility of recovery from the employee damages calculated in accordance with the rules of civil law, as is done in the attitude of the leaders of the organization with reference to the cases envisaged by the Federal law. This addition will allow you to apply the rules that establish liability for disclosure of commercial and official secrets (provided that the indication of other liability is excluded in article 1472 of the Civil code of the Russian Federation).

4. It is Advisable to Supplement the labor code with the possibility of including in the employment contract a provision on the employee's obligation to keep a commercial secret after termination of the employment relationship and payment of remuneration during the term of this obligation. In this case, the Labor code of the Russian Federation should also clearly establish a rule on responsibility for ensuring confidentiality of information between the former employee and the employer.

#### **Recommendations:**

1. It is necessary to adopt a Federal law on confidential information. The law should clearly define the concept of confidential information and the list of confidential information, reflect the basic principles of legal regulation of information confidentiality, requirements, procedure, organization of work with documents, protection system for all types of confidential information, solving problems of confidential information management, financial measures for its protection, state control and supervision in the field of compliance with the rights to protect commercial and official secrets.

2. To Fix in part 5 of article 42.1 of the law on protection of competition can be supplemented with the following paragraphs:

The expert, with the permission of the Commission, has the right to get acquainted with the materials of the case, which contain information constituting a legally protected secret, in the amount necessary for the examination.

The expert has no right to disclose information that he knows in connection with the examination, including information that is a state, commercial or other secret protected by law.

3. Establish in the labor code of the Russian Federation the possibility of collecting damages from an employee calculated in accordance with the norms of civil law, as is done in relation to the heads of organizations with reference to cases provided for by Federal law. This addition will allow you to apply the rules that establish liability for disclosure of commercial and official secrets (provided that the indication of other liability is excluded in article 1472 of the Civil code of the Russian Federation).

4. Add to the labor code of the Russian Federation the possibility of including in the employment contract provisions on the employee's obligation to maintain commercial secrets after termination of employment relations and payment of remuneration during the term of this

obligation. In this case, the Labor code of the Russian Federation should also clearly establish a rule on responsibility for ensuring confidentiality of information between the former employee and the employer.