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Trade secrets

New EU rules open the door to abuses by unscrupulous firms

A legislative agreement on new EU rules on the protection of trade secrets was today endorsed by the European Parliament's Legal Affairs committee. The Greens have expressed concern with the law, with Greens/EFA MEP **Julia Reda**, commenting after the vote:

"These new rules on 'trade secrets' leave the door open to abuse by unscrupulous corporations across Europe. The unnecessarily broad definition of what constitutes a 'trade secret' will enable corporations to claim information as a trade secret with a view to circumventing legislation, even when this should by rights be in the public domain. This is not a new phenomenon and there are many examples, like German car inspectors being prevented from inspecting software on diesel vehicles because the government insisted on protecting the car manufacturers' trade secrets. But we now have this bad practice established at EU level under EU law.

"The new rules also set a worrying precedent for workers' rights by defining skills and know-how gained during employment as a trade secret. This would put workers in a difficult legal position on changing employment and open to prosecution by former employers.

"While the new law includes some improvements on the protection of whistleblowers, it is unclear how these can work without uniform protection of whistleblowers. This uncertainty is regrettable, particularly when the importance of whistleblowers in defending the public interest has been underlined in recent high profile examples like the Luxembourg Leaks revelations. In any case, the provisions on whistleblowers are overshadowed by the fact that all information, including information about malpractice, can be protected as a trade secret. The burden of proof that the public interest outweighs the business interest will now always lie with the whistleblower."

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Felix Reda

Vice-President

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