

CRIMINAL LAW

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PROVISION ABOUT INFORMATION AS TARGET OF CRIMES, PRESCRIBED BY ARTICLES 231, 232, 232-1, 232-1 OF CRIMINAL CODE OF UKRAINE

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The basic types of information items as crimes that infringe on the order of use of commercial and banking secrecy and recognized objects of intellectual property rights (Articles 231, 232, 232-1, 232-2 of the Criminal Code of Ukraine). The definition of the concept of the use of unpublished information, its relationship with commercial and banking secrecy, as well as insider information.

Issuer, information, inside information, trade secrets, criminal liability.

The subject of the offenses provided for by Articles 231, 232, 232-1, 232-2 of the Criminal Code of Ukraine, there are some kinds of information - commercial and banking secrecy (Articles 231, 232 of the Criminal Code of Ukraine), inside information (art. 232-1 of the Criminal Code of Ukraine), information on activity issuer (Art. 232-2 of the Criminal Code of Ukraine). Recognition of the direct object of the crime of public relations in these kinds protection of information needs to clarify not only the content of such information as intellectual property rights, but also the content elements of public relations. Because there is no unity in the literature regarding the content of these questions and Ukrainian scientists uniquely suited to drawing conclusions on the matter. In this regard still remain unresolved

question of the relationship of the above kinds of information with each other, their "carriers" (owners, holders), possible damage to the rights of intellectual property as an object of criminal protection and value some evidence of a crime provided for by Articles 231, 232, 232-1, 232-2 of the Criminal Code of Ukraine, among themselves. Thus, the aim of this article is to address issues of commercial value, banking information, insider information and is not released information about the issuer or its securities necessary to determine the content objects offenses provided for by Articles 231, 232, 232-1, 232-2 Criminal Code of Ukraine.

Specific disclosure requirements should be supplemented by the general requirement to disclose. By the general principle of disclosure can enforce requirements for disclosure of all information (specific information) that is related to a particular investment decision. In another approach for such general requirements for information disclosure is subject to all the information (data) that prevents the delivery of information or inappropriate disclosure of accurate information.

The concept of "trade secret" is not identical to the concept of "inside information" as much of the inside information may be subject to disclosure requirements for disclosure through regular and special information on the activities of the issuer, and information pertaining to bank secrecy is not information about their activities, and is information about third parties which became known to the bank in the bank's customer service and relationship with him or third parties when providing services to the bank and the disclosure of which could harm significant damage to business owners, and may be disclosed by banks in order disclosure of bank secrecy. In turn, the information to be disclosed, can be trade secrets or confidential information.

In addition, the difference between trade secrets and insider information is combined legal and organizational measures used own information. The main purpose of the regulation of trade secrets as

intellectual property rights, is the ability of an owner aggressive operations aimed at keeping confidential information limit its spread, which could damage its reputation, company, etc.. In turn inside information is designed to ensure that all participants in the stock market equal opportunities that arise during the placement, circulation of securities and professional activities in the stock market, in order to ensure transparency and efficiency of the stock market.

Content analysis of dispositions of Articles 231, 232, 232-1, 232-2 of the Criminal Code of Ukraine shows that the disclosure or use of unpublished information about the issuer or its securities have increased public danger compared to other offenses above that directly affect the criminal legal assessment of the offense (especially when inside information regarding which committed a criminal act under Art. 232-1 of the Criminal Code of Ukraine, is both a commercial or bank secrecy actions covered guilty Art. 232-1 of the Criminal Code of Ukraine and the additional qualification under Art. 232 of the Criminal Code Ukraine does not need). In turn, trade secret as a kind of information is the subject of intellectual property rights should be recognized subject of an offense that infringes on the rights of owners subjective intellectual property rights, but only the information that is included in the economic (commercial) turnover and attacks which caused material damage to its owners in the form of loss (lost) benefit.