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Judgment in Joined Cases E-1/24 and E-7/24 *TC and AA*

RIGHT OF ACCESS TO BENEFICIAL OWNERSHIP INFORMATION

In a judgment delivered today, the Court answered questions referred to it in two cases from the Administrative Court of the Principality of Liechtenstein (*Verwaltungsgerichtshof des Fürstentums Liechtenstein*), which were joined for the purposes of the Court's judgment.

The main proceedings concern requests for access to Liechtenstein's register of Beneficial Owners of Legal Entities. In Case E-1/24 *TC*, the request was rejected because the applicant had not identified specific legal entities, as required by national law, but only named alleged beneficial owners. In Case E-7/24 *AA*, the request was rejected on the basis that the applicant lacked a legitimate interest.

As a preliminary matter, the Court considered the implications under EEA law arising from the ECJ's annulment of Article 1(15)(c) of the Fifth Anti-Money Laundering Directive¹ – amending Article 30(5)(c) of the Fourth Anti-Money Laundering Directive² – on the grounds that it breached Articles 7 and 8 of the Charter of Fundamental Rights of the European Union, which concern respect for private and family life and the protection of personal data. The Court found no compelling grounds to depart from the ECJ's interpretation. Accordingly, the amended Article 30(5)(c) of the Fourth Anti-Money Laundering Directive must be interpreted in accordance with that provision prior to the entry into force of the Fifth Anti-Money Laundering Directive. Access to information therefore requires that the applicant demonstrates a legitimate interest.

Further, the Court found that the right of access to beneficial ownership information encompasses any natural or legal person who is able to demonstrate a legitimate interest with respect to the purpose of the directive. In that regard, substantiating a legitimate interest is both necessary and sufficient to access information. A correct application of the national law implementing the Directive ensures that information on beneficial ownership is disclosed only when appropriate, necessary and proportionate in relation to the objective pursued.

Finally, the Court held that while it is for the national legal order to lay down procedural rules for accessing beneficial ownership information, EEA States must exercise that power in accordance with EEA law, in particular the principle of effectiveness. A rigid requirement to always specify the legal entity, without allowing the competent authority to consider the specific circumstances of the case, could make the exercise of the right of access excessively difficult.

¹ Directive (EU) 2018/843 of the European Parliament and of the Council of 30 May 2018 amending Directive (EU) 2015/849 on the prevention of the use of the financial system for the purposes of money laundering or terrorist financing, and amending Directives 2009/138/EC and 2013/36/EU.

² Directive (EU) 2015/849 of the European Parliament and of the Council of 20 May 2015 on the prevention of the use of the financial system for the purposes of money laundering or terrorist financing.

The advisory opinion is a step in the proceedings pending before the national court. The Administrative Court will now resume its proceedings and decide the cases pending before it in light of the Court's interpretation of the directives.

The full text of the judgment is available on the Court's website: <https://eftacourt.int/cases/joined-cases-e-1-24-and-e-7-24/>.

This press release is an unofficial document and is not binding upon the Court.