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### Judgment in Case E-10/19 *Bergbahn Aktiengesellschaft Kitzbühel v Meleda Anstalt*

#### REQUIREMENT TO CONFIRM IDENTITY OF BENEFICIAL OWNERS

In a judgment delivered today, the Court answered questions referred by the Princely Court of Appeal (*Fürstliches Obergericht*) regarding the interpretation of 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 Directive”).

The case concerned an action brought by Bergbahn Aktiengesellschaft Kitzbühel (“Bergbahn”), against its owning legal entity Meleda Anstalt, (“Meleda”), requesting that Meleda be ordered to provide information and proof on its beneficial owner(s). Meleda has alleged that no natural person exercises direct or indirect control over Meleda, and instead asked Bergbahn to enter Meleda’s board member in the Beneficial Owners Register.

The referring court referred a series of questions to the Court on the interpretation of Article 30(1) of the Directive. The referring court asked whether legal entities must confirm information on beneficial ownership by requesting underlying documentation, whether it is relevant that the beneficial owner is a legal person with a registered office in an EEA State and that its board members are subject to professional requirements, whether and to what extent the principle of data minimisation in the GDPR affects the documents to be produced, how the non-existence of ownership or control by a natural person must be proven, and whether a legal entity is required to bring a legal action to obtain information on its beneficial owner.

The Court held that Article 30(1) of the Directive must be interpreted as requiring a legal entity to take reasonable measures to seek to confirm the identity of its beneficial owner, such as requiring underlying documentation, when the circumstances of a situation present it with doubts as to the accuracy of the information received. The obligation is not altered by the fact that the owner is a legal person with a registered office in an EEA State nor by the profession of its board members.

Further, the Court held that it is for the referring court to ascertain to what extent the information on beneficial ownership processed is in line with the principle of data minimisation in point (c) of Article 5(1) of the GDPR by being adequate, relevant and limited to what is necessary to identify and, if needed, confirm the beneficial owner. The Court also held that point (v) of Article 3(6)(b) and point (c) of Article 3(6) of the Directive cannot be interpreted as obliging anyone to prove the non-existence of indirect ownership or ultimate control by a natural person. Finally, the Court held that the Directive does not require a legal entity to bring legal proceedings against its owning entity to obtain information on a beneficial owner.

The full text of the judgment may be found on the Court’s website: [www.eftacourt.int](http://www.eftacourt.int).

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