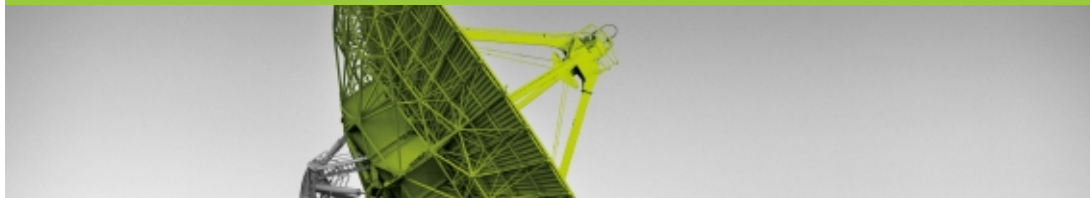


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Luxembourg Newsflash - 9 October 2020

Beneficial owner information: CJEU asked for preliminary ruling affecting justifications to temporarily restrict public access

In a pending case against Luxembourg Business Registers, the Luxembourg District Court submitted a referral to the Court of Justice of the European Union (CJEU) requesting a preliminary ruling on the concept of 'exceptional circumstances' as set out in Article 30(9) of Directive (EU) 2015/849, as amended by Directive (EU) 2018/843.

Background

The amended law of 13 January 2019 establishing the Register of Beneficial Owners (the "RBO Law") entered into force on 1 March 2019. Implementing Directives 2015/849/EU (AMLD IV) and 2018/843/EU (AMLD V), the RBO Law created a central register of beneficial owners (the "RBO").

The RBO is accessible to the public. However, the Directives and the RBO Law provide that public access to a beneficial owner's information can be temporarily restricted in 'exceptional circumstances', as further detailed in the legislation.

Request for preliminary ruling

The Luxembourg District Court asked the CJEU to give a preliminary ruling on the interpretation and scope of the concepts of 'exceptional circumstances' and 'risk' set out in Art. 30(9) of Directive (EU) 2015/849 and the corresponding national provisions in Art. 15(1) of the RBO Law.

In practical terms, the CJEU is asked to state the limits (if any) on the discretion of national legislation and courts in defining and applying the concept of exceptional circumstances. One objective is to clarify whether the concept of a 'disproportionate risk' constitutes an exceptional circumstance on its own, as well as the extent to which any risk present must be qualified.

Practical relevance

The outcome of this proceeding will likely clarify which justifications may be used to request a temporary restriction on public access to a beneficial owner's information in the RBO. Please do not hesitate to contact us for practical information on how this may pertain to you.

Relevant documents

- [Consolidated version of Directive \(EU\) 2015/849](#)
- [Consolidated version of the Law of 13 January 2019 establishing the Beneficial Owner Register \(bilingual: French and English\)](#)
- [Request for preliminary ruling](#)

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