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AMLD | BO-Registers – Compromise Text and the *Sovim* judgment Third Letter to the EU

I write further to my [First Letter](#) and [Second Letter](#) relating to the [Compromise Text](#) published of a new AML directive in response to the *Sovim* judgment ([C-601/20](#)).

1. A reminder of the risk of abuse

In my Second Letter I addressed the risk of abuses connected with a semi-public system under which whole sections of the public would have continuous and generalised access to beneficial ownership data without any regulatory oversight, nor vetting.

In that letter I made a comparison with police officers and this item in [today's news](#) concerning a parliamentarian should serve as a clear reminder that data access can be abused, so that any limitation of the fundamental rights to privacy and data protection should satisfy the strict necessity test laid out by the CJEU in a string of cases.¹

2. Request of information

In its reply to my First Letter, the Commission stated that "*efforts during the negotiations focused in particular on ensuring an adequate balance between the fundamental rights enshrined in the Charter and the legitimate public interest objective to prevent and combat money laundering, its predicate offences and terrorist financing.*"

My [research into the internal documents](#) of the EU, which we brought to the [attention of the CJEU](#), shows that during the negotiations of the ill-fated public registers solution



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Schrems (C-362/14), *Tele2 Sverige* (C-203/15), *PNR agreement* (Opinion 1/2015), MEP expenses (T-639/15), *Privacy International* (C-623/17), *Spacenet* (C-793/19), *Sovim* (C-601/20), as well as L.B. v Hungary (ECtHR application n° 36345/16).

there were substantial differences between the various EU institutions, with the Commission stating during the Trialogue that the ill-fated proposal was 'unacceptable':

"GRI du 17 mars 2017 - SI(2017) 96

Commission's position

The Commission cannot, at this stage, accept the amendments proposing wider transparency and access to the beneficial ownership registers without a prior analysis of the proportionality and necessity of such extension, as well as its impact on the fundamental rights and data protection. "

Given the Commission's reluctance in enforcing the CJEU judgment (as discussed in the previous correspondence) there is a public, legitimate, interest in accessing the internal documents of the trialogue that led to the Compromise Text to ensure proper accountability of the work that the Commission is carrying out as 'guardian of the EU treaties', in particular in relation to fundamental rights.

Please therefore treat this letter as a request of access to the documents, minutes, agendas and inter-institutional correspondence relating to the Compromise Text insofar as it relates to the definition of 'legitimate interest' and the requirements and conditions for access to central registers of beneficial ownership based on such interest.

Also, could you please point at any statistical data and/or data driven studies confirming that giving access to people's private information relating to companies based in the EU to whole professional categories would reduce money laundering and terrorist financing.

As the EU advocates the principle of transparency, I am hopeful that you will apply the same principle when dealing with the request of information contained in this letter.

As the CJEU said in *Sovim*, at [paragraph 61](#), in negating the existence of a recognised public interest of transparency in relation to the data of private citizens:

"..the principle of transparency is given concrete expression primarily in the requirements of institutional and procedural transparency covering activities of public institutions".

I look forward to hearing from you at your earliest convenience and perhaps you could confirm the timetable for the provision of the information requested in this letter.

Best regards,

5 April 2024

Filippo Nosedà
Partner