JUDGMENT OF THE COURT
7 May 2025*

(Anti-money laundering – Directive (EU) 2015/849 – Article 30(5)(c) – Access to beneficial ownership information – Directive (EU) 2018/843 – Validity of legislative acts – Principle of homogeneity – Fundamental rights – Respect for private life – Protection of personal data – Freedom of expression – National procedural autonomy – Principle of effectiveness – Regulation (EU) 2016/679)

In Joined Cases E-1/24 and E-7/24,

REQUESTS to the Court under Article 34 of the Agreement between the EFTA States on the Establishment of a Surveillance Authority and a Court of Justice by the Administrative Court of the Principality of Liechtenstein (*Verwaltungsgerichtshof des Fürstentums Liechtenstein*), in the cases of

TC,

and

AA,

THE COURT,

composed of: Páll Hreinsson, President, Bernd Hammermann and Michael Reiertsen (Judge-Rapporteur), Judges,

Registrar: Ólafur Jóhannes Einarsson,

having considered the written observations in Case E-1/24 submitted on behalf of:

- TC, represented by Dr Alexander Amann, advocate;

* Language of the requests: German. Translations of national provisions are unofficial and based on those contained in the documents of the cases.

- the Liechtenstein Government, represented by Dr Andrea Entner-Koch, Romina Schobel and Dr Claudia Bösch, acting as Agents;

- the Norwegian Government, represented by Lisa-Mari Moen Jünge and Bojana Stankovic, acting as Agents;

- the EFTA Surveillance Authority ("ESA"), represented by Claire Simpson, Michael Sánchez Rydelski and Melpo-Menie Joséphidès, acting as Agents; and

- the European Commission ("the Commission"), represented by Julie Samnadda and Gregor von Rintelen, acting as Agents,

having regard to the Report for the Hearing in Case E-1/24,

having heard oral argument on behalf of TC, represented by Dr Alexander Amann; the Liechtenstein Government, represented by Dr Claudia Bösch; the Norwegian Government, represented by Lisa-Mari Moen Jünge; ESA, represented by Claire Simpson; and the Commission, represented by Julie Samnadda, at the hearing in Case E-1/24 on 17 September 2024; and

having considered the written observations in Case E-7/24 submitted on behalf of:

- the Liechtenstein Government, represented by Dr Andrea Entner-Koch, Romina Schobel and Dr Claudia Bösch, acting as Agents;

- ESA, represented by Claire Simpson, Michael Sánchez Rydelski and Melpo-Menie Joséphidès, acting as Agents; and

- the Commission, represented by Julie Samnadda and Gregor von Rintelen, acting as Agents,

having regard to the Report for the Hearing in Case E-7/24,

having heard oral argument on behalf of the Liechtenstein Government, represented by Dr Claudia Bösch; the Norwegian Government, represented by Lisa-Mari Moen Jünge, acting as Agent; ESA, represented by Claire Simpson; and the Commission, represented by Julie Samnadda, at the hearing in Case E-7/24 on 17 September 2024,

gives the following

JUDGMENT

I INTRODUCTION

1 These requests for advisory opinions concern the right to access beneficial ownership information under Article 30 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.

2 The requests have been made in proceedings before the Administrative Court of the Principality of Liechtenstein concerning the applications of TC and AA for access to beneficial ownership information.

II LEGAL BACKGROUND

EEA law

3 Article 34 of the Agreement between the EFTA States on the Establishment of a Surveillance Authority and a Court of Justice ("SCA") reads, in extract:

> *The EFTA Court shall have jurisdiction to give advisory opinions on the interpretation of the EEA Agreement.*
>
> *Where such a question is raised before any court or tribunal in an EFTA State, that court or tribunal may, if it considers it necessary to enable it to give judgment, request the EFTA Court to give such an opinion.*
>
> *…*

4 The first, second, fourth and fifteenth recitals of the Agreement on the European Economic Area ("the EEA Agreement" or "EEA") read:

> *CONVINCED of the contribution that a European Economic Area will bring to the construction of a Europe based on peace, democracy and human rights;*
>
> *REAFFIRMING the high priority attached to the privileged relationship between the European Community, its Member States and the EFTA States, which is based on proximity, long-standing common values and European identity;*
>
> *…*
>
> *CONSIDERING the objective of establishing a dynamic and homogeneous European Economic Area, based on common rules and equal conditions of competition and providing for the adequate means of enforcement including at the judicial level, and achieved on the basis of equality and reciprocity and of an overall balance of benefits, rights and obligations for the Contracting Parties;*
>
> *…*
>
> *WHEREAS, in full deference to the independence of the courts, the objective of the Contracting Parties is to arrive at, and maintain, a uniform interpretation and application of this Agreement and those provisions of Community legislation which are substantially reproduced in this Agreement and to arrive at an equal*

treatment of individuals and economic operators as regards the four freedoms and the conditions of competition;

5 Article 1 EEA reads:

1. The aim of this Agreement of association is to promote a continuous and balanced strengthening of trade and economic relations between the Contracting Parties with equal conditions of competition, and the respect of the same rules, with a view to creating a homogeneous European Economic Area, hereinafter referred to as the EEA.

2. In order to attain the objectives set out in paragraph 1, the association shall entail, in accordance with the provisions of this Agreement:

(a) the free movement of goods;

(b) the free movement of persons;

(c) the free movement of services;

(d) the free movement of capital;

(e) the setting up of a system ensuring that competition is not distorted and that the rules thereon are equally respected; as well as

(f) closer cooperation in other fields, such as research and development, the environment, education and social policy.

6 Article 98 EEA reads:

The Annexes to this Agreement and Protocols 1 to 7, 9 to 11, 19 to 27, 30 to 32, 37, 39, 41 and 47, as appropriate, may be amended by a decision of the EEA Joint Committee in accordance with Articles 93(2), 99, 100, 102 and 103.

7 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, amending Regulation (EU) No 648/2012 of the European Parliament and of the Council, and repealing Directive 2005/60/EC of the European Parliament and of the Council and Commission Directive 2006/70/EC (OJ 2015 L 141, p. 73) ("Directive 2015/849") was incorporated into the EEA Agreement by Decision of the EEA Joint Committee No 249/2018 of 5 December 2018 (OJ 2021 L 337, p. 42) ("JCD 249/2018"). Directive 2015/849 was added as point 23b of Annex IX (Financial services) to the EEA Agreement. Constitutional requirements were indicated by Iceland, Liechtenstein and Norway. The requirements were fulfilled by 25 June 2019 and the decision entered into force on 1 August 2019.

8 Recitals 1, 14, 15 and 65 of Directive 2015/849 read:

(1) Flows of illicit money can damage the integrity, stability and reputation of the financial sector, and threaten the internal market of the Union as well as international development. Money laundering, terrorism financing and organised crime remain significant problems which should be addressed at Union level. In addition to further developing the criminal law approach at Union level, targeted and proportionate prevention of the use of the financial system for the purposes of money laundering and terrorist financing is indispensable and can produce complementary results.

…

(14) The need for accurate and up-to-date information on the beneficial owner is a key factor in tracing criminals who might otherwise hide their identity behind a corporate structure. Member States should therefore ensure that entities incorporated within their territory in accordance with national law obtain and hold adequate, accurate and current information on their beneficial ownership, in addition to basic information such as the company name and address and proof of incorporation and legal ownership. With a view to enhancing transparency in order to combat the misuse of legal entities, Member States should ensure that beneficial ownership information is stored in a central register located outside the company, in full compliance with Union law. Member States can, for that purpose, use a central database which collects beneficial ownership information, or the business register, or another central register. Member States may decide that obliged entities are responsible for filling in the register. Member States should make sure that in all cases that information is made available to competent authorities and FIUs and is provided to obliged entities when the latter take customer due diligence measures. Member States should also ensure that other persons who are able to demonstrate a legitimate interest with respect to money laundering, terrorist financing, and the associated predicate offences, such as corruption, tax crimes and fraud, are granted access to beneficial ownership information, in accordance with data protection rules. The persons who are able to demonstrate a legitimate interest should have access to information on the nature and extent of the beneficial interest held consisting of its approximate weight.

(15) For that purpose, Member States should be able, under national law, to allow for access that is wider than the access provided for under this Directive.

…

(65) This Directive respects the fundamental rights and observes the principles recognised by the Charter, in particular the right to respect for private and family life, the right to the protection of personal data, the freedom to conduct a business, the prohibition of discrimination, the right to an effective remedy and to a fair trial, the presumption of innocence and the rights of the defence.

9 Article 1(1) of Directive 2015/849 reads:

This Directive aims to prevent the use of the Union's financial system for the purposes of money laundering and terrorist financing.

10 Article 3(4) of Directive 2015/849 reads, in extract, as adapted by JCD No 249/2018:

For the purposes of this Directive, the following definitions apply:

…

(4) 'criminal activity' means any kind of criminal involvement in the commission of the following serious crimes:

(a) acts set out in Articles 1 to 4 of Framework Decision 2002/475/JHA;

(b) any of the offences referred in Article 3(1)(a) of the 1988 United Nations Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances;

(c) the activities of criminal organisations as defined in Article 1 of Council Joint Action 98/733/JHA;

(d) fraud affecting the Union's financial interests, where it is at least serious, as defined below:

(i) in respect of expenditure, any intentional act or omission relating to:

— the use or presentation of false, incorrect or incomplete statements or documents, which has as its effect the misappropriation or wrongful retention of funds from the general budget of the European Union or budgets managed by, or on behalf of, the European Union,

— non-disclosure of information in violation of a specific obligation, with the same effect,

— the misapplication of such funds for purposes other than those for which they were originally granted;

(ii) in respect of revenue as defined in Council Decision of 29 September 2000 on the system of the European Communities' own resources any intentional act or omission relating to:

— the use or presentation of false, incorrect or incomplete statements or documents, which has as its effect the illegal diminution of the resources of the general budget of the European Union or budgets managed by, or on behalf of, the European Union,

— non-disclosure of information in violation of a specific obligation, with the same effect,

— *misapplication of a legally obtained benefit, with the same effect.*

Serious fraud shall be considered to be fraud involving a minimum amount not to be set at a sum exceeding Euro 50 000;

(e) corruption;

(f) all offences, including tax crimes relating to direct taxes and indirect taxes and as defined in the national law of the Member States, which are punishable by deprivation of liberty or a detention order for a maximum of more than one year or, as regards Member States that have a minimum threshold for offences in their legal system, all offences punishable by deprivation of liberty or a detention order for a minimum of more than six months;

11 Article 5 of Directive 2015/849 reads:

Member States may adopt or retain in force stricter provisions in the field covered by this Directive to prevent money laundering and terrorist financing, within the limits of Union law.

12 Article 7(1) of Directive 2015/849 reads:

Each Member State shall take appropriate steps to identify, assess, understand and mitigate the risks of money laundering and terrorist financing affecting it, as well as any data protection concerns in that regard. It shall keep that risk assessment up to date.

13 Article 30 of Directive 2015/849 reads, in extract:

1. Member States shall ensure that corporate and other legal entities incorporated within their territory are required to obtain and hold adequate, accurate and current information on their beneficial ownership, including the details of the beneficial interests held.

Member States shall ensure that those entities are required to provide, in addition to information about their legal owner, information on the beneficial owner to obliged entities when the obliged entities are taking customer due diligence measures in accordance with Chapter II.

…

3. Member States shall ensure that the information referred to in paragraph 1 is held in a central register in each Member State, for example a commercial register, companies register as referred to in Article 3 of Directive 2009/101/EC of the European Parliament and of the Council, or a public register. Member States shall notify to the Commission the characteristics of those national

mechanisms. The information on beneficial ownership contained in that database may be collected in accordance with national systems.

…

5. Member States shall ensure that the information on the beneficial ownership is accessible in all cases to:

(a) competent authorities and FIUs, without any restriction;

(b) obliged entities, within the framework of customer due diligence in accordance with Chapter II;

(c) any person or organisation that can demonstrate a legitimate interest.

The persons or organisations referred to in point (c) shall access at least the name, the month and year of birth, the nationality and the country of residence of the beneficial owner as well as the nature and extent of the beneficial interest held.

For the purposes of this paragraph, access to the information on beneficial ownership shall be in accordance with data protection rules and may be subject to online registration and to the payment of a fee. The fees charged for obtaining the information shall not exceed the administrative costs thereof.

...

9. Member States may provide for an exemption to the access referred to in points (b) and (c) of paragraph 5 to all or part of the information on the beneficial ownership on a case-by-case basis in exceptional circumstances, where such access would expose the beneficial owner to the risk of fraud, kidnapping, blackmail, violence or intimidation, or where the beneficial owner is a minor or otherwise incapable. Exemptions granted pursuant to this paragraph shall not apply to the credit institutions and financial institutions, and to obliged entities referred to in point (3)(b) of Article 2(1) that are public officials.

…

14 Article 31(3) and (4) of Directive 2015/849 reads:

3. Member States shall require that the information referred to in paragraph 1 can be accessed in a timely manner by competent authorities and FIUs.

4. Member States shall require that the information referred to in paragraph 1 is held in a central register when the trust generates tax consequences. The central register shall ensure timely and unrestricted access by competent authorities and FIUs, without alerting the parties to the trust concerned. It may

also allow timely access by obliged entities, within the framework of customer due diligence in accordance with Chapter II. Member States shall notify to the Commission the characteristics of those national mechanisms.

15 Article 41(1) of Directive 2015/849 reads:

The processing of personal data under this Directive is subject to Directive 95/46/EC, as transposed into national law. Personal data that is processed pursuant to this Directive by the Commission or by the ESAs is subject to Regulation (EC) No 45/2001.

16 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 (OJ 2018 L 156, p. 43) ("Directive 2018/843") was incorporated into the EEA Agreement by Decision of the EEA Joint Committee No 63/2020 of 30 April 2020 (OJ 2023 L 72, p. 29) ("JCD 63/2020"). Directive 2018/843 was added to point 23b of Annex IX (Financial services) to the EEA Agreement. Constitutional requirements were indicated by Iceland, Liechtenstein and Norway. The requirements were fulfilled by 27 June 2024 and the decision entered into force on 1 August 2024.

17 Recitals 41, 42 and 51 of Directive 2018/843 read:

(41) Access to information and the definition of legitimate interest should be governed by the law of the Member State where the trustee of a trust or person holding an equivalent position in a similar legal arrangement is established or resides. Where the trustee of the trust or person holding equivalent position in similar legal arrangement is not established or does not reside in any Member State, access to information and the definition of legitimate interest should be governed by the law of the Member State where the beneficial ownership information of the trust or similar legal arrangement is registered in accordance with the provisions of this Directive.

(42) Member States should define legitimate interest, both as a general concept and as a criterion for accessing beneficial ownership information in their national law. In particular, those definitions should not restrict the concept of legitimate interest to cases of pending administrative or legal proceedings, and should enable to take into account the preventive work in the field of anti-money laundering, counter terrorist financing and associate predicate offences undertaken by non-governmental organisations and investigative journalists, where appropriate. Once the interconnection of Member States' beneficial ownership registers is in place, both national and cross-border access to each Member State's register should be granted based on the definition of legitimate interest of the Member State where the information relating to the beneficial ownership of the trust or similar legal arrangement has been registered in accordance with the provisions of this Directive, by virtue of a decision taken by

the relevant authorities of that Member State. In relation to Member States' beneficial ownership registers, it should also be possible for Member States to establish appeal mechanisms against decisions which grant or deny access to beneficial ownership information. With a view to ensuring coherent and efficient registration and information exchange, Member States should ensure that their authority in charge of the register set up for the beneficial ownership information of trusts and similar legal arrangements cooperates with its counterparts in other Member States, sharing information concerning trusts and similar legal arrangements governed by the law of one Member State and administered in another Member State.

…

(51) This Directive respects the fundamental rights and observes the principles recognised by the Charter of Fundamental Rights of the European Union ('the Charter'), in particular the right to respect for private and family life (Article 7 of the Charter), the right to the protection of personal data (Article 8 of the Charter) and the freedom to conduct a business (Article 16 of the Charter).

18 Article 1 of Directive 2018/843 reads, in extract:

Directive (EU) 2015/849 is amended as follows:

…

(2) Article 3 is amended as follows:

(a) point (4) is amended as follows:

(i) point (a) is replaced by the following:

'(a) terrorist offences, offences related to a terrorist group and offences related to terrorist activities as set out in Titles II and III of Directive (EU) 2017/541;'

(ii) point (c) is replaced by the following:

'(c) the activities of criminal organisations as defined in Article 1(1) of Council Framework Decision 2008/841/JHA;'

…

(15) Article 30 is amended as follows:

…

(c) paragraph 5 is replaced by the following:

‘5. Member States shall ensure that the information on the beneficial ownership is accessible in all cases to:

(a) competent authorities and FIUs, without any restriction;

(b) obliged entities, within the framework of customer due diligence in accordance with Chapter II;

(c) any member of the general public.

The persons referred to in point (c) shall be permitted to access at least the name, the month and year of birth and the country of residence and nationality of the beneficial owner as well as the nature and extent of the beneficial interest held.

Member States may, under conditions to be determined in national law, provide for access to additional information enabling the identification of the beneficial owner. That additional information shall include at least the date of birth or contact details in accordance with data protection rules.’;

...

(16) Article 31 is amended as follows:

...

(d) paragraph 4 is replaced by the following:

‘4. Member States shall ensure that the information on the beneficial ownership of a trust or a similar legal arrangement is accessible in all cases to:

(a) competent authorities and FIUs, without any restriction;

(b) obliged entities, within the framework of customer due diligence in accordance with Chapter II;

(c) any natural or legal person that can demonstrate a legitimate interest;

(d) any natural or legal person that files a written request in relation to a trust or similar legal arrangement which holds or owns a controlling interest in any corporate or other legal entity other than those referred to in Article 30(1), through direct or indirect ownership, including through bearer shareholdings, or through control via other means.

The information accessible to natural or legal persons referred to in points (c) and (d) of the first subparagraph shall consist of the name, the month and

year of birth and the country of residence and nationality of the beneficial owner, as well as nature and extent of beneficial interest held.

Member States may, under conditions to be determined in national law, provide for access of additional information enabling the identification of the beneficial owner That additional information shall include at least the date of birth or contact details, in accordance with data protection rules. Member States may allow for wider access to the information held in the register in accordance with their national law.

Competent authorities granted access to the central register referred to in paragraph 3a shall be public authorities with designated responsibilities for combating money laundering or terrorist financing, as well as tax authorities, supervisors of obliged entities and authorities that have the function of investigating or prosecuting money laundering, associated predicate offences and terrorist financing, tracing, and seizing or freezing and confiscating criminal assets.';

...

19 Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC (General Data Protection Regulation) ("the GDPR") (OJ 2016 L 119, p. 1) was incorporated into the EEA Agreement by Decision of the EEA Joint Committee No 154/2018 of 6 July 2018 (OJ 2018 L 183, p. 23) and is referred to at point 5e of Annex XI (Electronic communication, audiovisual services and information society). Constitutional requirements were indicated by Liechtenstein. They were fulfilled on 19 July 2018 and the decision entered into force on 20 July 2018.

20 Article 5(1) of the GDPR, entitled "Principles relating to processing of personal data", reads, in extract:

Personal data shall be:

...

(c) adequate, relevant and limited to what is necessary in relation to the purposes for which they are processed ('data minimisation');

...

21 Article 6(1) of the GDPR, entitled "Lawfulness of processing", reads, in extract:

Processing shall be lawful only if and to the extent that at least one of the following applies:

...

(c) processing is necessary for compliance with a legal obligation to which the controller is subject;

…

(e) processing is necessary for the performance of a task carried out in the public interest or in the exercise of official authority vested in the controller;

(f) processing is necessary for the purposes of the legitimate interests pursued by the controller or by a third party, except where such interests are overridden by the interests or fundamental rights and freedoms of the data subject which require protection of personal data, in particular where the data subject is a child.

Point (f) of the first subparagraph shall not apply to processing carried out by public authorities in the performance of their tasks.

22 Article 15(1) of the GDPR, entitled "Right of access by the data subject", reads:

The data subject shall have the right to obtain from the controller confirmation as to whether or not personal data concerning him or her are being processed, and, where that is the case, access to the personal data and the following information:

(a) the purposes of the processing;

(b) the categories of personal data concerned;

(c) the recipients or categories of recipient to whom the personal data have been or will be disclosed, in particular recipients in third countries or international organisations;

(d) where possible, the envisaged period for which the personal data will be stored, or, if not possible, the criteria used to determine that period;

(e) the existence of the right to request from the controller rectification or erasure of personal data or restriction of processing of personal data concerning the data subject or to object to such processing;

(f) the right to lodge a complaint with a supervisory authority;

(g) where the personal data are not collected from the data subject, any available information as to their source;

(h) the existence of automated decision-making, including profiling, referred to in Article 22(1) and (4) and, at least in those cases, meaningful information about the logic involved, as well as the significance and the envisaged consequences of such processing for the data subject.

National law

23 According to the request from the Administrative Court in Case E-1/24 *TC*, the Act of 3 December 2020 on the Register of Beneficial Owners of Legal Entities (*Gesetz vom 03. Dezember 2020 über das Verzeichnis der wirtschaftlich berechtigten Personen von Rechtsträgern*) (LGBl. 2021 No 33) ("the VwbPG") serves to implement Articles 30 and 31 of Directive 2015/849.

24 Chapter IV. C. of the VwbPG governs the disclosure of data. Article 17 thereof, entitled "Disclosure of data to third parties", reads, in extract:

> *1) Domestic and foreign persons and organisations may for a fee request from the Office of Justice that the data of unattached legal entities specified in Annex 1 entered in the Register be disclosed.*
>
> *2) The application referred to in paragraph 1 shall be submitted to the Office of Justice. It shall contain the following information and documents:*
>
> *a) information on the applicant:*
>
> *1. in the case of natural persons: surname, first name and address;*
>
> *2. in the case of legal entities and organisations: firm name, name or designation and address, purpose and domicile as well as the surname and first name of the natural person authorised to represent it; the power of representation must be proven;*
>
> *b) firm name or name of the unattached legal entity specified in Annex 1 whose data are to be disclosed; and*
>
> *c) a statement that the data from the Register are required for the prevention of money laundering, predicate offences to money laundering and terrorist financing.*
>
> *...*
>
> *4) Domestic and foreign persons and organisations may for a fee request from the Office of Justice in relation to legal entities that cannot be deemed unattached legal entities specified in Annex 1 that the data entered in the Register be disclosed. This shall not apply to the data of founders and protectors who do not exercise control of a non-unattached legal entity specified in Annex 1. This shall be without prejudice to Articles 13, 15 and 16.*
>
> *5) The application referred to in paragraph 4 shall be submitted to the Office of Justice. It shall contain the following information and documents:*
>
> *a) information on the applicant:*

1. in the case of natural persons: surname, first name and address;

2. in the case of legal entities and organisations: firm name, name or designation and address, purpose and domicile as well as the surname and first name of the natural person authorised to represent it; the power of representation must be proven;

b) firm name or name of the legal entity whose data are to be disclosed;

c) information on the intended use of the information requested; and

d) proof of a legitimate interest as specified in paragraph 6 or of a controlling interest as specified in paragraph 7.

...

10) The Office for Justice shall forward the application referred to in paragraph 4, including the associated documents referred to in paragraphs 5 and 8, to the VwbP Commission for a decision.

III FACTS AND PROCEDURE

Case E-1/24 *TC*

25 By letter of 1 March 2023 and supplementary letter of 30 March 2023, TC requested that the Office of Justice disclose to her the full data of all (independent and dependent) legal entities in relation to which the appellant herself, and/or her father VC, and/or her brother BC, and/or Mr NN are registered as beneficial owner(s).

26 By letter of 26 April 2023, the Office of Justice forwarded the request for disclosure to the *Verzeichnis der wirtschaftlich berechtigten Personen-Kommission* (Register of Beneficial Owners Commission) ("VwbP Commission"), which decides in first instance on requests for disclosure concerning legal entities that cannot be deemed to be unattached legal entities.

27 By decision of 11 May 2023, the VwbP Commission rejected the request for disclosure. It explained that, by virtue of statutory requirements, the request for disclosure could not succeed as it must identify by firm name, or name, the specific legal entities whose data is to be disclosed (Article 17 of the VwbPG).

28 By order of 15 May 2023, the Office of Justice ruled on the request for disclosure to the extent that it concerned unattached legal entities as follows: (i) disclosure of the data is refused and (ii) the applicant shall pay the costs of the procedure consisting in a decision fee of CHF 10.00.

29 This decision was reasoned on the basis that, in her request, TC – contrary to Article 17(2)(b) of the VwbPG – had not specified a firm name or a name of an unattached

legal entity whose data was to be disclosed. As, pursuant to Article 30(5) of Directive 2015/849, persons or organisations shall be permitted to access the name, the month and year of birth and the country of residence and nationality of the beneficial owner as well as the nature and extent of the beneficial interest, the VwbP Commission held that it could not be concluded that an applicant also had the right to the naming of the firm name or name of all the legal entities in which this or other persons had a beneficial interest.

30 The Board of Appeal for Administrative Matters (*Beschwerdekommission für Verwaltungsangelegenheiten* ("VBK")), by decisions of 2 August 2023 in cases VBK 2023/46 and 2023/47, refused the appeals brought against the decision of the VwbP Commission of 11 May 2023 and of the order of the Office of Justice of 15 May 2023. Against these decisions, TC brought an appeal to the Administrative Court.

31 Against this background, the Administrative Court decided on 15 December 2023 to refer the following question to the Court which was registered at the Court on 3 January 2024:

> *Must Directive (EU) 2015/849, as amended by Directive (EU) 2018/843, be interpreted as meaning that it precludes a national provision according to which the request of a domestic or foreign person or organisation for disclosure of the data entered in the register of beneficial owners on legal entities must include the naming of the firm name or name of the legal entity whose data are to be disclosed?*

Case E-7/24 *AA*

32 By email of 13 January 2023 and supplementary letter of 6 February 2023, AA requested the Office of Justice to disclose to him the data on the beneficial owners of the BB Foundation from the register of beneficial owners of legal entities. By letter of 2 March 2023, the BB Foundation expressed its opposition to the disclosure requested, as in its view a legitimate interest did not exist.

33 By letter of 8 March 2023, the Office of Justice forwarded the request for disclosure to the VwbP Commission for a decision.

34 By decision of 27 April 2023, the VwbP Commission rejected the request for disclosure. It explained that a legitimate interest in the disclosure of the data within the meaning of Article 17(6) of the VwbPG had not been sufficiently demonstrated.

35 AA brought an appeal against this decision to the VBK, which by decision of 2 August 2023 refused the appeal. AA brought an appeal against this decision to the Administrative Court.

36 Against this background, the Administrative Court decided on 15 March 2024 to refer the following questions to the Court which were registered at the Court on 2 April 2024:

1. Must Article 1(1) of Directive (EU) 2015/849 and point (c) of the first subparagraph of Article 30(5) of Directive (EU) 2015/849 in the original version be interpreted as meaning that an inspection of the register of beneficial owners by a private person whose only connection with money laundering, terrorist financing and associated predicate offences consists in the fact that their financial interests were harmed by a predicate offence is not necessary and thus not proportionate in order to combat money laundering, predicate offences to money laundering and terrorist financing?

2. If Question 1 is answered in the negative: Must point (c) of the first subparagraph of Article 30(5) of Directive (EU) 2015/849 in the original version be interpreted as meaning that a private person whose only connection with money laundering, terrorist financing and associated predicate offences consists in the fact that their financial interests were harmed by a predicate offence does not have a legitimate interest in inspecting the register of beneficial owners?

3. If Question 2 is answered in the negative: Must point (c) of the first subparagraph of Article 30(5) of Directive (EU) 2015/849 in the original version be interpreted as meaning that a substantiation of a legitimate interest is necessary but also sufficient?

37 By letter of 26 April 2024, registered at the Court on 30 April 2024, the Administrative Court requested the Court to join Case E-1/24 *TC* and Case E-7/24 *AA*. On 15 July 2024, pursuant to Article 46 of the Rules of Procedure and after having heard the views of the parties, the Court joined the cases for the purpose of the decision which closes the proceedings.

38 Reference is made to the Reports for the Hearing in Case E-1/24 *TC* and Case E-7/24 *AA*, respectively, for a fuller account of the legal framework, the facts, the procedure and the proposed answers submitted to the Court. Arguments of the parties are mentioned or discussed hereinafter only insofar as it is necessary for the reasoning of the Court.

IV ANSWER OF THE COURT

Preliminary remarks

Admissibility

39 The Liechtenstein Government submits that the request in Case E-1/24 *TC* should be declared inadmissible as Directive 2018/843 had not entered into force in the EEA when the request was made.

40 The Court recalls that under Article 34 SCA, any court or tribunal in an EFTA State may refer questions on the interpretation of the EEA Agreement to the Court, if it considers an advisory opinion necessary to enable it to give judgment. The purpose of

Article 34 SCA is to establish cooperation between the Court and the national courts and tribunals. It is intended to be a means of ensuring a homogenous interpretation of EEA law and to provide assistance to the courts and tribunals in the EFTA States in cases in which they have to apply provisions of EEA law (see the judgment of 23 May 2024 in *Gylfason and Others*, Joined Cases E-13/22 and E-1/23, paragraph 61 and case law cited).

41 It is settled case law that questions concerning the interpretation of EEA law referred by a national court, in the factual and legislative context which that court is responsible for defining and the accuracy of which is not a matter for the Court to determine, enjoy a presumption of relevance. The Court may only refuse to rule on a question referred by a national court where it is obvious that the interpretation of EEA law that is sought bears no relation to the actual facts of the main action or its purpose where the problem is hypothetical, or where the Court does not have before it the factual or legal material necessary to give a useful answer to the questions referred (see the judgment in *Gylfason and Others*, Joined Cases E-13/22 and E-1/23, cited above, paragraph 62 and case law cited).

42 It would seem to appear from the request in Case E-1/24 *TC* that the amendments introduced by Directive 2018/843 were incorporated into Liechtenstein law before their entry into force in the EEA on 1 August 2024. The referring court thus explicitly seeks guidance on the interpretation of Directive 2015/849 as amended by Directive 2018/843, which it considers to be relevant for the application of national law. Furthermore, in its request in Case E-7/24 *AA*, the referring court refers to Directive 2018/843 for the purpose of interpreting Directive 2015/849.

43 It is settled case law that where domestic legislation, in regulating purely internal situations not governed by EEA law, adopts the same or similar solutions as those adopted in EEA law, it is in the interest of the EEA to forestall future differences of interpretation. Provisions or concepts taken from EEA law should be interpreted uniformly, irrespective of the circumstances in which they are to apply. However, as the jurisdiction of the Court is confined to considering and interpreting provisions of EEA law only, it is for the national court to assess the precise scope of that reference to EEA law in national law (see the judgment in *Gylfason and Others*, Joined Cases E-13/22 and E-1/23, cited above, paragraph 65 and case law cited).

44 In order to give the national courts or tribunals a useful answer, the Court may, in the spirit of cooperation, provide them with all the guidance that it deems necessary. Thus, it is incumbent on the Court to give as complete and as useful a reply as possible and it does not preclude the Court from providing the referring courts with all the elements of interpretation of EEA law which may be of assistance in adjudicating in the cases pending before them (see the judgment in *Gylfason and Others*, Joined Cases E-13/22 and E-1/23, cited above, paragraph 67 and case law cited).

45 In light of the foregoing, the request in Case E-1/24 *TC* is admissible.

Article 1(15)(c) of Directive 2018/843 in the EEA context

46 Since the questions referred are admissible, the Court is faced with the question of what implications arise from the fact that Article 1(15)(c) of Directive 2018/843 has been declared invalid by the European Court of Justice ("ECJ"), as a matter of EU law, insofar as it amended point (c) of the first subparagraph of Article 30(5) of Directive 2015/849. In its judgment of 22 November 2022 in *Luxembourg Business Registers*, Joined Cases C-37/20 and C-601/20, EU:C:2022:912, paragraph 88, the ECJ held that the requirement for EU Member States to ensure that information on beneficial ownership is accessible to any member of the general public conflicted with the fundamental rights enshrined in Articles 7 and 8 of the Charter of Fundamental Rights of the European Union ("the Charter"), which concern respect for private and family life and the protection of personal data.

47 The Court notes that under Article 98 of the EEA Agreement both the incorporation and repeal of legislative acts within the EEA are executed through decisions of the EEA Joint Committee. The Court points, in this context, to the obligation upon the EEA Joint Committee under Article 102 EEA to guarantee the legal security and homogeneity of the EEA. As pointed out by ESA, there are examples of the EEA Joint Committee having acted in response to cases where the ECJ has declared parts of EU legal acts, which have been incorporated into the EEA Agreement, invalid.

48 Directive 2018/843 was incorporated into the EEA Agreement by JCD 63/2020 on 30 April 2020. The judgment in *Luxembourg Business Registers*, Joined Cases C-37/20 and C-601/20, cited above, declaring invalid a provision of that directive was delivered on 22 November 2022, nearly two years before the entry into force of JCD 63/2020 on 1 August 2024. In the intervening period, the EEA Joint Committee has not taken any steps to modify Article 1(15)(c) of Directive 2018/843, meaning that this provision formally remains in force as part of the EEA Agreement. This raises the question of how point (c) of the first subparagraph of Article 30(5) of Directive 2015/849, as amended by Article 1(15)(c) of Directive 2018/843, should be interpreted within the EEA legal order.

49 The EEA Agreement reaffirms, as stated in its second recital, the special relationship between the European Union, its Member States and the EFTA States, which is based on proximity, long-standing common values and European identity. It is in the light of that special relationship that one of the principal objectives of the EEA Agreement must be understood, namely to provide for the fullest possible realisation of the free movement of goods, persons, services and capital within the whole EEA, so that the internal market established within the European Union is extended to the EFTA States. In that perspective, a number of provisions in the EEA Agreement are intended to ensure that the interpretation of that agreement is as uniform as possible throughout the EEA. It is for the Court, in that context, to ensure that the rules of the EEA Agreement which are identical in substance to those in EU law are interpreted uniformly and homogenously within the EFTA States (see the judgment of 12 December 2024 in *A* v *B*, E-15/24, paragraph 68 and case law cited).

50 The general aim of the EEA Agreement, as laid down in Article 1(1) EEA, is to promote a continuous and balanced strengthening of trade and economic relations between the

Contracting Parties with equal conditions of competition and the respect of the same rules, with a view to creating a homogeneous European Economic Area (see the judgment of 10 December 1998 in *Sveinbjörnsdóttir*, E-9/97, paragraph 47). Homogenous interpretation and application of common rules is, as is apparent from the fourth and fifteenth recitals of the EEA Agreement, essential for the effective functioning of the internal market within the EEA. The principle of homogeneity leads to a presumption that provisions framed in the same way in the EEA Agreement and EU law are to be construed in the same way. Differences in scope and purpose, however, may under specific circumstances constitute compelling grounds for divergent interpretations between EEA law and EU law (see the judgment of 8 July 2008 in *L'Oréal*, Joined Cases E-9/07 and E-10/07, paragraph 27 et seq. and case law cited).

51 The Court recalls that a gap between the two EEA pillars has emerged since the signing of the EEA Agreement in 1992. This gap has widened over the years. The EU treaties have been amended four times since then, while the main part of the EEA Agreement has remained substantially unchanged. This development has resulted in growing differences between the EU Treaties and the main part of the EEA Agreement. Depending on the circumstances, this fact may have an impact on the interpretation of the EEA Agreement (see the judgment of 26 July 2016 in *Jabbi*, E-28/15, paragraph 62).

52 One of the more significant changes in EU law is the adoption of the Charter of Fundamental Rights of the European Union. According to Article 6(1) of the Treaty on European Union, the Charter holds the same legal value as the Treaties. The fundamental rights guaranteed in the legal order of the European Union are applicable in all situations governed by EU law (compare the judgment of 29 July 2024 in *protectus*, C-185/23, EU:C:2024:657, paragraph 41 and case law cited). Accordingly, the fundamental rights enshrined in the Charter play a key role in the interpretation of EU legislative acts, irrespective of their EEA relevance, as well as Treaty provisions that reflect the main part of the EEA Agreement. Given the significance of the Charter and the associated case law as a source of EU law, the provisions of the Charter may likewise be relevant in the interpretation of EEA law.

53 The first recital of the EEA Agreement emphasises that the European Economic Area contributes to the construction of a Europe built on peace, democracy and human rights. Therefore, although the EEA Agreement does not contain a specific provision on fundamental rights protection, the Contracting Parties clearly presupposed that the Agreement would provide for adequate protection of fundamental rights. Indeed, according to the Court's established case law, provisions of EEA law are to be interpreted in light of fundamental rights which form part of the general principles of EEA law (see the judgment of 9 August 2024 in *X*, E-10/23, paragraph 72 and case law cited). In addition, EEA States, in particular their courts, must not only interpret their national law in a manner consistent with EEA law but are also under an obligation to ensure that the interpretation and application of acts incorporated into the EEA Agreement does not result in a conflict with fundamental rights protected by EEA law (see the judgment of 21 March 2024 in *Criminal proceedings against LDL*, E-5/23, paragraph 54 and case law cited).

54 For the purpose of recognising the fundamental rights forming part of the general principles of EEA law, the Court draws inspiration from the constitutional traditions common to the EEA States and from the guidelines supplied by international treaties for the protection of human rights on which the EEA States have collaborated or of which they are signatories. In that context, the ECHR has special significance, as all EEA States are parties to the ECHR. The provisions of the ECHR and the judgments of the European Court on Human Rights ("ECtHR") are important sources for determining the scope of these fundamental rights (see the judgment of 9 August 2024 in *Låssenteret*, E-11/23, paragraph 46 and case law cited).

55 Moreover, the provisions of the Charter and the judgments of the ECJ are relevant in this respect (see, inter alia, the judgment in *A* v *B*, E-15/24, cited above, paragraph 52; and the judgment in *X*, E-10/23, cited above, paragraph 70 et seq. and case law cited). In accordance with Article 52(3) of the Charter, the rights contained therein have the same meaning and scope as the corresponding rights guaranteed by the ECHR, although that does not preclude EU law from affording more extensive protection. Therefore, when interpreting the rights guaranteed by the Charter, the ECJ takes account of the corresponding rights guaranteed by the ECHR, as interpreted by the ECtHR, as the minimum threshold of protection (compare the judgment of 4 October 2024 in *Real Madrid Club de Fútbol*, C-633/22, EU:C:2024:843, paragraphs 51 and 52 and case law cited).

56 Article 8(1) ECHR enshrines the right to respect for private and family life, which in the European Union is reaffirmed by Article 7 of the Charter (see the judgment of 26 July 2011 in *Clauder*, E-4/11, paragraph 49 and case law cited). Article 8 of the Charter further enshrines the right to protection of personal data. The Court observes in this respect that the ECtHR has also acknowledged that the protection of personal data is of fundamental importance to a person's enjoyment of his or her right to respect for private and family life, as guaranteed by Article 8 ECHR (see the judgment of 4 July 2023 in *Hurbain* v *Belgium*, CE:ECHR:2023:0704JUD005729216, paragraph 190 and case law cited).

57 It should be added that both recital 65 of Directive 2015/849 and recital 51 of Directive 2018/843 state that the directives respect the fundamental rights and observe the principles recognised by the Charter, in particular the right to respect for private and family life (Article 7 of the Charter) and the right to the protection of personal data (Article 8 of the Charter).

58 It follows from the above that there are no compelling grounds under EEA law to consider that the fundamental rights protection guaranteed under EEA law differs in this case from what is applicable as a matter of EU law. Point (c) of the first subparagraph of Article 30(5) of Directive 2015/849 as amended by Article 1(15)(c) of Directive 2018/843 must therefore be interpreted in accordance with that provision prior to the entry into force of Directive 2018/843, requiring any person or organisation requesting access to information on beneficial ownership to demonstrate a legitimate interest.

Case E-7/24 *AA*

Question 2 – the concept of a legitimate interest

59 The Court finds it appropriate to address the referring court's second and third questions, before examining the first question. By its second question, the referring court essentially seeks to ascertain whether individuals may have a legitimate interest to access beneficial ownership information within the meaning of Article 30(5)(c) of Directive 2015/849 if their only connection with money laundering, terrorist financing and associated predicate offences consists in the fact that their financial interests were harmed by a predicate offence.

60 The Court observes that Directive 2015/849 is an important instrument for ensuring that the financial system is effectively protected against threats from money laundering and terrorist financing. Central to this framework is the obligation upon legal entities to know the identity of the person or persons who own or control them. Therefore, in accordance with Article 30(1) and (3) of Directive 2015/849, EEA States must ensure that corporate and other legal entities incorporated within their territory are required to obtain and hold adequate, accurate and current information on their beneficial ownership, including the details of the beneficial interests held, and that this information is held in a central register in each EEA State (see the judgment of 22 December 2020 in *Bergbahn*, E-10/19, paragraph 93).

61 With a view to enhancing transparency in order to combat the misuse of legal entities, Article 30(5) of Directive 2015/849, as is apparent from recital 14 thereof, establishes a differentiated regime for access to beneficial ownership information by distinguishing between three categories. First, under point (a), national authorities and Financial Intelligence Units ("FIUs") shall have access without any restriction. Second, under point (b), obliged entities shall have access within the framework of customer due diligence in accordance with Chapter II of Directive 2015/849. Third, under point (c), any person or organisation not falling within the first two categories shall have access to the extent that they can demonstrate a legitimate interest.

62 However, neither Article 30 nor any other provision of Directive 2015/849 defines the concept of a "legitimate interest" in this context. The Court recalls that the meaning and scope of terms for which EEA law provides no definition must be determined by considering their usual meaning in everyday language, while also taking into account the context in which they occur and the purposes of the rules of which they are part (see the judgment of 14 December 2021 in *Norep*, E-2/21, paragraph 31 and case law cited).

63 The Court observes that the term "legitimate interest" does not lend itself easily to a legal definition (compare the judgment in *Luxembourg Business Registers*, Joined Cases C-37/20 and C-601/20, cited above, paragraphs 71 and 72). The ordinary meaning of a "legitimate interest", in everyday language, simply refers to any interest that is considered lawful or justified. However, the objective pursued by Article 30(5)(c) of Directive 2015/849 and the EEA rules of which it forms part make clear that the notion of "legitimate interest" has a particular meaning in the context of the directive.

64 According to Article 1(1) of Directive 2015/849, read in the light of recital 1 thereof, the directive's main objective is the prevention of the use of the financial system for the purposes of money laundering and terrorist financing, so as to avoid flows of illicit money damaging the integrity, stability and reputation of the EEA's financial sector and threatening its internal market as well as international development.

65 Further, as is apparent from recital 14 of Directive 2015/849, transparency is necessary in order to stop criminals from hiding their identity behind a corporate structure and to prevent the misuse of legal entities. EEA States should therefore ensure that persons who are able to demonstrate a legitimate interest with respect to money laundering, terrorist financing, and the associated predicate offences, such as corruption, tax crimes and fraud, are granted access to beneficial ownership information, in accordance with data protection rules. The persons who are able to demonstrate a legitimate interest should have access to information on the nature and extent of the beneficial interest held consisting of its approximate weight.

66 Accordingly, Article 30(5)(c) of Directive 2015/849 must be interpreted as encompassing any natural or legal person who is able to demonstrate a legitimate interest with respect to the purpose of preventing and combating money laundering, terrorist financing and the associated predicate offences. These criminal activities include, as outlined in Article 3(4) of Directive 2015/849 as amended, terrorist offences, narcotics trafficking, organised crime, fraud affecting the European Union's financial interests, corruption, and tax crimes.

67 The mere fact that such persons may also report the relevant conduct to national authorities, or are not habitually active in the field of anti-money laundering, does not automatically disqualify them from having a legitimate interest within the meaning of that provision (compare the opinion of Advocate General Pitruzzella of 20 January 2022 in *Luxembourg Business Registers*, Joined Cases C-37/20 and C-601/20, EU:C:2022:43, points 169 and 170). The key consideration is whether persons seeking access have demonstrated that they will use the information to combat money laundering, terrorist financing and associated predicate offences. This assessment must be carried out on a case-by-case basis, taking into account the relevant facts, including the function or occupation of the persons seeking access and their connection to the legal entities or legal arrangements whose information is being sought, as well as the objective of Article 30(5)(c) of Directive 2015/849 and the overall aim of that directive.

68 It should be noted that such a definition does not prevent EEA States from further specifying the concept of "legitimate interest" in their national legislation. As expressed in recital 41 of Directive 2018/843, access to information and the definition of legitimate interest should be governed by the law of the EEA State concerned. Recital 42 also emphasises that EEA States should define legitimate interest, both as a general concept and as a criterion for accessing beneficial ownership information in their national law. In particular, those definitions should not restrict the concept of legitimate interest to cases of pending administrative or legal proceedings, and should enable account to be taken of the preventive work in the field of anti-money laundering, counter terrorist financing and associate predicate offences undertaken by non-governmental

organisations and investigative journalists, where appropriate.

69 Furthermore, EEA States may establish legal presumptions under national legislation. In the absence of relevant EEA rules and in accordance with the principle of national procedural autonomy, it is for the national legal order of each EEA State to lay down rules governing the legal procedures to ensure the protection of the rights which individuals acquire under EEA law, while respecting the requirements flowing from the principles of equivalence and effectiveness (see the judgment in *Låssenteret*, E-11/23, cited above, paragraph 44 and case law cited).

70 For the purpose of substantiating such a legitimate interest, it should be noted that both the press and civil society organisations involved in preventing and combating money laundering and terrorist financing, as is apparent from recital 42 of Directive 2018/843, have a legitimate interest in accessing beneficial ownership information. The same holds true for individuals seeking to identify the beneficial owners of companies or legal entities with which they are likely to engage in transactions, as well as financial institutions and authorities involved in combating these offences – provided they do not already have access under points (a) and (b) of the first subparagraph of Article 30(5) of the Directive (compare the judgment in *Luxembourg Business Registers*, Joined Cases C-37/20 and C-601/20, cited above, paragraph 74).

71 Finally, the Court notes that Directive 2015/849 carries out only minimum harmonisation, as Article 5 of Directive 2015/849, read in the light of recital 15 thereof, provides that EEA States may adopt or retain in force stricter provisions in the field covered by the directive to prevent money laundering and terrorist financing, within the limits of EEA law (compare the judgment of 17 November 2022 in *Rodl & Partner*, C-562/20, EU:C:2022:883, paragraph 46). As such, Directive 2015/849 does not in and of itself preclude EEA States from granting broader access rights for other purposes. However, EEA States must still comply with applicable EEA law, in particular the GDPR and fundamental rights.

72 In light of the foregoing, the answer to the second question referred in Case E-7/24 *AA* is that point (c) of the first subparagraph of Article 30(5) of Directive 2015/849 must be interpreted as meaning that persons whose only connection with money laundering, terrorist financing and associated predicate offences consists in the fact that their financial interests were harmed by a predicate offence may have a legitimate interest to access beneficial ownership information within the meaning of that provision, which must be assessed on a case-by-case basis.

Question 3 – standard of proof

73 By its third question, the referring court asks whether Article 30(5)(c) of Directive 2015/849 must be interpreted as meaning that substantiation of a legitimate interest is necessary and sufficient in order to be granted access to beneficial ownership information.

74 At the outset, it must be borne in mind that Article 30(5)(c) of Directive 2015/849

imposes both an obligation on EEA States and a right for individuals to access beneficial ownership information, subject to certain conditions. Article 30(9) then lays down the conditions under which EEA States may provide for exemptions from such access.

75 The wording of Article 30(5)(c) requires that the person or organisation must "demonstrate" a legitimate interest in order to access the information. This implies that mere assertions are insufficient, but also that certainty cannot be required. Consequently, the person seeking access must, to some extent, substantiate that the requested information will be used to counter money laundering, terrorist financing and the associated predicate offences.

76 This interpretation is supported by the broader context and purpose of Article 30(5)(c) of Directive 2015/849. On the one hand, if the standard of proof is set too low, the framework would resemble the unlimited access scheme provided for by Article 1(15)(c) of Directive 2018/843, which was invalidated by the ECJ, whose underlying reasoning is, for the reasons set out above, also applicable in the EEA context. On the other hand, if the standard of proof is set too high, the right to access beneficial ownership information in Article 30(5)(c) of Directive 2015/849 could be undermined. The quality and quantity of evidence which is to be required must therefore depend on what the national court deems necessary in light of the specific facts of each case.

77 In the absence of relevant EEA rules and in accordance with the principle of national procedural autonomy, it is for the national legal order of each EEA State, as indicated in recital 42 of Directive 2018/843, to lay down rules governing the legal procedures to ensure the protection of the rights which individuals acquire under EEA law, while respecting the principles of equivalence and effectiveness. This entails that the procedural rules governing the protection of rights under EEA law must be no less favourable than those governing similar domestic actions (principle of equivalence) and must not be framed in such a way as to render impossible in practice or excessively difficult the exercise of rights conferred by EEA law (principle of effectiveness). It is for the referring court to assess whether the national rules in question respect the principles of equivalence and effectiveness (see the judgment in *Låssenteret*, E-11/23, cited above, paragraph 44 and case law cited).

78 In light of the foregoing, the answer to the third question referred in Case E-7/24 *AA* is that substantiation of a legitimate interest is both necessary and sufficient in order to access information contained in the beneficial ownership register. It is for the domestic legal system of each EEA State to lay down procedural rules governing access to the beneficial owner registers. Such procedural rules must, however, be in compliance with the principles of equivalence and effectiveness. The quality and quantity of evidence which is to be required must therefore depend on what the national court deems necessary in light of the specific facts of each case.

Question 1 – proportionality

79 By its first question, the referring court essentially asks whether granting access to beneficial ownership information under point (c) of the first subparagraph of Article

30(5) of Directive 2015/849 to a private person whose only connection with money laundering, terrorist financing and associated predicate offences consists in the fact that his financial interests were harmed by a predicate offence constitutes a proportionate interference with the fundamental rights of the identified beneficial owners.

80 The Court recalls that EEA States are under an obligation to ensure that the application of acts incorporated into the EEA Agreement does not result in a conflict with fundamental rights protected by EEA law (see the judgment in *X*, E-10/23, cited above, paragraph 72 and case law cited).

81 In that regard, the Court observes that access to information on beneficial ownership, provided for in Article 30(5) of Directive 2015/849, constitutes an interference with the fundamental right to respect for private life and protection of personal data guaranteed under EEA law. The Court notes that Articles 7 and 8 of the Charter provide for such rights (compare the judgment in *Luxembourg Business Registers*, Joined Cases C-37/20 and C-601/20, cited above, paragraph 40).

82 It is settled case law that not all fundamental rights enjoy absolute protection but must be considered in relation to their function in society. They may thus be restricted, provided that the restrictions are provided for by law and respect the essence of those rights. Moreover, subject to the principle of proportionality, limitations may be made only if they are necessary and genuinely meet objectives of general interest recognised by EEA law or the need to protect the rights and freedoms of others (see the judgment of 9 July 2014 in *Fred. Olsen*, Joined Cases E-3/13 and E-20/13, paragraph 230; the judgment in *X*, E-10/23, cited above, paragraph 74 and case law cited; and compare the judgment in *Luxembourg Business Registers*, Joined Cases C-37/20 and C-601/20, cited above, paragraphs 45 and 46 and case law cited).

83 To that end, access to information on beneficial ownership is appropriate for contributing to the attainment of the objective of general interest of seeking to prevent money laundering and terrorist financing, since transparency contributes to the creation of an environment less likely to be used for such purposes. That aim constitutes an objective of general interest that is capable of justifying even serious interferences with the fundamental rights in question (compare the judgment in *Luxembourg Business Registers*, Joined Cases C-37/20 and C-601/20, cited above, paragraphs 59 and 67).

84 Moreover, a correct application of the national legislation implementing point (c) of the first subparagraph of Article 30(5) of Directive 2015/849, in the light of the Court's interpretation, as regards what constitutes a legitimate interest and the required standard of proof will, in practice, ensure that information on beneficial ownership is disclosed only when appropriate, necessary and proportionate in relation to the objective pursued.

85 In light of the foregoing, the answer to the first question is that granting access to beneficial ownership information constitutes a proportionate interference with the fundamental rights of the identified beneficial owners insofar as the person requesting access can demonstrate a legitimate interest under point (c) of the first subparagraph of Article 30(5) of Directive 2015/849.

Case E-1/24 *TC*

86 By its question, the referring court in Case E-1/24 *TC* essentially asks whether Directive 2015/849, as amended by Directive 2018/843, precludes national legislation that requires a person requesting access to beneficial ownership information to name the firm or legal entity in respect of which the information is sought.

87 TC submits that the answer should be in the affirmative. She argues that the requirement to name specific legal entities cannot be derived from a provision of Directive 2015/849, nor would this be justified in light of its context and purpose. TC argues that under no circumstances can the right of an individual to access the information provided for by Article 30(5) of Directive 2015/849 be undermined.

88 The Liechtenstein Government submits that the answer should be in the negative. It argues that in order for the competent national authorities to be able to verify a legitimate interest, it is necessary that the person requesting access identifies the legal entity whose beneficial ownership information is to be disclosed. If not, it is not possible to establish a sufficient link between a legal entity and relevant alleged criminal conduct.

89 The Norwegian Government submits that it is for the EEA States to decide whether the national regime shall enable access to information on beneficial ownership upon providing names of expected or alleged owners, provided that the arrangement respects the general principles of EEA law and otherwise is in accordance with data protection rules within the EEA.

90 ESA submits that the answer should be in the negative. In its written observations, it argued that the wording of Article 30(5) of Directive 2015/849 does not specify the information that must be included in a request for access, but that the preamble indicates that a key aim of Directive 2015/849 is to ensure the identification of the beneficial owner of a given entity. This is further supported by Directive 2018/843 and the judgment in *Luxembourg Business Registers*. At the hearing, however, ESA clarified that national legislation is subject to the general principles of EEA law, including the principles of equivalence and effectiveness, which could make it necessary to grant access even though the person seeking access has not identified the entity but only a person potentially being a beneficial owner.

91 The Commission submits that the answer should be in the negative. It argues that Directive 2015/849 not only permits but requires national legislation such as that at issue in the main proceedings. It follows from the text of Article 30 of Directive 2015/849 read in the light of recital 14 thereof that the information on the central register of beneficial ownership is submitted by reference to the corporate and legal entity, which is obliged to provide such information on its beneficial ownership. This presupposes that information on the beneficial owner will only be disclosed in case of (i) the demonstration of a legitimate interest related to the objective of Directive 2015/849 and (ii) a request for access which identifies the corporate or other legal entity.

92 The Court recalls that the interpretation of a provision of EEA law requires account to be taken not only of its wording, but of its context and the objectives and purpose pursued by the act of which it forms part. The legislative history of a provision of EEA law may also reveal elements that are relevant to its interpretation. Moreover, where a provision of EEA law is open to several interpretations, preference must be given to the interpretation which ensures that the provision retains its effectiveness (see the judgment of 5 February 2025 in *Söderberg*, E-17/24, paragraph 40 and case law cited).

93 The Court notes that the wording of Article 30(5) of Directive 2015/849 only states that "information on the beneficial ownership" shall be accessible but does not specify the information which, potentially, must be included in a request for disclosure. Points (a) to (c) then list the three categories of applicants which are entitled to receive information.

94 Point (a) stipulates that competent authorities and FIUs shall receive such information "in all cases" and "without any restriction".

95 Point (b) further stipulates that "obliged entities", within the framework of due diligence in accordance with Chapter II of Directive 2015/849, shall receive such information in all cases. Hence, access to beneficial information must be granted insofar as it is necessary to comply with the obligations outlined in Chapter II.

96 Point (c) grants a right to any person or organisation to access beneficial ownership information to the extent that they can "demonstrate a legitimate interest". It follows from a literal reading of that provision, in particular the term "in all cases", that this right is dependent on a single criterion: the demonstration of a legitimate interest. There is nothing in the wording of Article 30(5) of Directive 2015/849 to indicate that this right of access is contingent upon the applicant naming the legal entity whose information is being sought.

97 The second subparagraph of Article 30(5) of Directive 2015/849 stipulates that the persons or organisations referred to in point (c) shall access "at least" the name, the month and year of birth and the country of residence and nationality of the beneficial owner as well as the nature and extent of the beneficial interest held. The Court observes that this provision simply lists minimum disclosure requirements and does not specify that the persons encompassed by point (c) must include the name of the legal entity in the request.

98 Accordingly, a textual interpretation of point (c) of the first subparagraph of Article 30(5) suggests that Directive 2015/849 neither requires nor precludes EEA States from adopting legislation that requires persons seeking access to specify the legal entity whose beneficial ownership information is being sought. It simply establishes that the demonstration of a legitimate interest is the sole substantive requirement for access and leaves national legislatures with a degree of latitude in deciding how the public should access the information on beneficial ownership and what procedures must be followed (compare the opinion of Advocate General Pitruzzella in *Luxembourg Business Registers*, Joined Cases C-37/20 and C-601/20, cited above, point 93).

99 When exercising that power, however, EEA States must comply with EEA law, in particular the principle of effectiveness. It is settled case law that the question of whether a national procedural provision makes the application of EEA law impossible or excessively difficult must be analysed by reference to the role of that provision in the procedure, its conduct and its special features, viewed as a whole, before the various national bodies (see the judgment in *Låssenteret*, E-11/23, cited above, paragraph 54 and case law cited).

100 The Court observes in this respect that a rigid formal 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 to beneficial ownership information excessively difficult.

101 In this respect, it is necessary to distinguish between the substantive right set out in Directive 2015/849 and the formal conditions set by EEA States governing the procedure under national law. As the Court has held above, the right of access according to Article 30(5)(c) of Directive 2015/849 is subject to an overall assessment which must be carried out on a case-by-case basis. Therefore, it cannot be automatically concluded that applicants may never have a legitimate interest if they do not know the name of the legal entity. Indeed, applicants may not always be in a position to specify the legal entity, especially if the beneficial owner has sought to conceal its interests.

102 Furthermore, a rigid requirement to always specify the legal entity, without allowing the competent authority to consider the specific circumstances of the case, could also impede the crucial efforts of the press and civil society organisations to prevent, investigate and detect money laundering and terrorist financing. In this respect, it must be noted that it follows from the case law of the ECtHR that not only publications but also the preparatory steps to a publication, such as the gathering of information and the research and investigative activities of a journalist, are inherent components of the freedom of the press as enshrined in Article 10 ECHR and are, as such, protected (compare the judgment of 15 March 2022 in *Autorité des marchés financiers*, C-302/20, EU:C:2022:190, paragraph 68; the judgment of 25 April 2006 in *Dammann* v *Switzerland*, CE:ECHR:2006:0425JUD007755101, paragraph 52; and the judgment of 27 June 2017 in *Satakunnan Markkinapörssi Oy and Satamedia Oy* v *Finland*, CE:ECHR:2017:0627JUD000093113, paragraph 128).

103 This interpretation is consistent with the objective pursued by Directive 2015/849, namely, as follows from Article 1(1) thereof, to prevent the use of the financial system for the purposes of money laundering and terrorist financing. Understanding the beneficial ownership of legal entities is an important part of mitigating the risk of financial crime and of prevention strategies for regulated firms. By providing for access to information on beneficial ownership, as is apparent from recital 14 of Directive 2015/849, the legislature seeks to prevent money laundering and terrorist financing by creating, by means of increased transparency, an environment less likely to be used for those purposes (compare the judgment in *Luxembourg Business Registers*, Joined Cases C-37/20 and C-601/20, cited above, paragraphs 55 and 58).

104 Transparency in the ownership of companies is thus at the core of mitigating the risk of financial crime. Complex corporate structures may increase the risks of money laundering and terrorist financing, particularly where the identity of the ultimate beneficial owner may be unclear (see the judgment in *Bergbahn*, E-10/19, cited above, paragraphs 102 and 106). In certain circumstances, a named individual may serve as the only connecting factor to legal entities, the names of which are unknown to an individual who has a legitimate interest for the purposes of countering money laundering, terrorist financing and associated predicate offences in obtaining access to information on their beneficial ownership pursuant to point (c) of the first subparagraph of Article 30(5) of Directive 2015/849.

105 Both in its written observations and at the hearing, the Commission argued that Article 30(5) of Directive 2015/849 should not be interpreted in a way which facilitates a so-called "fishing expedition" – a term used by the Commission to describe requests that identify natural persons with the intent of later accessing information on the corporate or other legal entities.

106 The Court notes, however, that individuals seeking to obtain information pursuant to point (c) of the first subparagraph of Article 30(5) of Directive 2015/849 are always required to demonstrate a legitimate interest in accessing beneficial ownership information for the purposes of countering money laundering, terrorist financing and associated predicate offences, which the competent authority must verify. Once a legitimate interest has been demonstrated, access cannot be denied solely because the applicant is not in a position to name the legal entity. The Court recalls that where a provision of EEA law is open to several interpretations, preference must be given to that interpretation which ensures that the provision retains its effectiveness. Therefore, Article 30(5) of Directive 2015/849 must not be interpreted in a manner that makes it more difficult for the press, civil society organisations, and other persons with a legitimate interest to obtain access.

107 That interpretation is also borne out by the objective pursued by Directive 2015/849 and its general scheme. Article 5 of Directive 2015/849 allows EEA States to adopt or retain in force stricter provisions where those provisions seek to strengthen the fight against money laundering and terrorist financing, within the limits of EEA law (see the judgment in *Bergbahn*, E-10/19, cited above, paragraph 96 and case law cited). Moreover, it is apparent from Article 7(1) that EEA States are, by reason of their own particular circumstances, exposed to varying money laundering and terrorist financing risks. It is therefore for each EEA State to determine the level that it deems appropriate with respect to the identified level of risk of money laundering or terrorist financing (compare the judgment in *Rodl & Partner*, C-562/20, cited above, paragraph 53 and case law cited).

108 EEA States thus have a certain discretion, when transposing Directive 2015/849, as to the appropriate way of implementing the obligation to ensure that corporate and other legal entities incorporated within their territory obtain and hold adequate, accurate and current information on their beneficial ownership, and to organise their beneficial owners registers, including what information is to be collected, stored, and made

accessible, as well as the method for searching and compiling such data. As expressed in recital 15 of Directive 2015/849, EEA States should be able to allow for wider access under national law than that required by Directive 2015/849, with a view to enhancing transparency in order to combat the misuse of legal entities. If Directive 2015/849 were to require the identification of the legal entity and thereby prevent EEA States from granting access to persons who can nonetheless demonstrate a legitimate interest, the scope for allowing for broader access would be rendered nugatory.

109 Directive 2015/849 must, however, also be interpreted having regard to the legal framework for protection of personal data within the EEA. The last subparagraph of Article 30(5) of Directive 2015/849 stipulates that access to information on beneficial ownership shall be in accordance with data protection rules. Article 41(1) of Directive 2015/849 expressly provides that the processing of personal data under that directive is subject to Directive 95/46 and, therefore, to the GDPR, Article 94(2) of which states that references to Directive 95/46 are to be construed as references to the GDPR. Hence, any collection, storage and making available of information under Directive 2015/849 must fully meet the requirements arising from the GDPR (compare the judgment in *Luxembourg Business Registers*, Joined Cases C-37/20 and C-601/20, cited above, paragraph 53).

110 In the Court's view, granting access to beneficial ownership information without specifying the legal entity is compatible with the GDPR, provided that the applicant can demonstrate a legitimate interest in accordance with the interpretation of point (c) of the first subparagraph of Article 30(5) of Directive 2015/849 provided above. In this respect, the Court observes that points (c), (e) and (f) of Article 6(1) of the GDPR provide that processing shall be lawful if necessary for compliance with a legal obligation to which the controller is subject, for the performance of a task carried out in the public interest or in the exercise of official authority vested in the controller, or for the purposes of the legitimate interests pursued by the controller or by a third party, except where such interests are overridden by the interests or fundamental rights and freedoms of the data subject which require protection of personal data (compare the opinion of Advocate General Pitruzzella in *Luxembourg Business Registers*, Joined Cases C-37/20 and C-601/20, cited above, points 122 to 125).

111 The Court further notes that the argument of ESA and the Commission – suggesting that TC could obtain some of the requested information by exercising her right to access personal data under Article 15 of the GDPR – does not justify an automatic rejection under Directive 2015/849. Such an approach would grant access to such information only in specific circumstances, such as when victims of financial crime seek redress for themselves. It fails to address the needs of other legitimate operators in the anti-money laundering field, including the press and civil society organisations.

112 An interpretation of point (c) of the first subparagraph of Article 30(5) of Directive 2015/849 according to which persons who can demonstrate a legitimate interest may access beneficial ownership information without naming the legal entity is, furthermore, consistent with fundamental rights. The Court reiterates that since access to beneficial ownership information constitutes an interference with the fundamental right to respect

for private and family life and the protection of personal data, it must be provided for by law and be necessary in a democratic society to meet objectives of general interest recognised by the EEA legal order or for the protection of the fundamental rights and freedoms of others.

113 The requirement that any limitation on the exercise of fundamental rights must be provided for by law, implies that the act which permits the interference with those rights must itself define the scope of the limitation on the exercise of the right concerned, bearing in mind, on the one hand, that that requirement does not preclude the limitation in question from being formulated in terms which are sufficiently open to be able to adapt to different scenarios and keep pace with changing circumstances and, on the other hand, that the Court may, where appropriate, specify, by means of interpretation, the actual scope of the limitation in the light of the very wording of the legislation in question as well as its general scheme and the objectives it pursues, as interpreted in view of the fundamental rights that form part of the general principles of EEA law (compare the judgment in *Luxembourg Business Registers*, Joined Cases C-37/20 and C-601/20, cited above, paragraph 47 and case law cited).

114 In that regard, it should be noted that the present limitation on the exercise of fundamental rights, resulting from access to beneficial ownership information, is provided for by Directive 2015/849. In addition, Article 30(1) and (5) provides, first, access to the information on the beneficial owners and their beneficial interests, specifying that those data must be adequate, accurate and current, while expressly listing certain of those data to which access must be granted. Secondly, Article 30(9) lays down the conditions under which EEA States may provide for exemptions from such access. In those circumstances, the principle of legality is fulfilled (compare the judgment in *Luxembourg Business Registers*, Joined Cases C-37/20 and C-601/20, cited above, paragraphs 48 and 49).

115 Furthermore, a correct application of the national legislation implementing Article 30(5)(c) of Directive 2015/849 will generally ensure that access to beneficial ownership information is granted only when it is appropriate, necessary, and proportionate in relation to the objective pursued. The Court recalls, in this regard, that the aim of preventing money laundering and terrorist financing by creating, by means of increased transparency, an environment less likely to be used for those purposes constitutes an objective of general interest that is capable of justifying even serious interferences with the right to privacy and protection of personal data (compare the judgment in *Luxembourg Business Registers*, Joined Cases C-37/20 and C-601/20, cited above, paragraphs 55, 58 and 59).

116 The Court further recalls that there are no compelling grounds under EEA law to consider that the fundamental rights protection guaranteed under EEA law differs in this case from what is applicable as a matter of EU law. Point (c) of the first subparagraph of Article 30(5) of Directive 2015/849 as amended by Article 1(15)(c) of Directive 2018/843 must therefore be interpreted as requiring any person or organisation requesting access to information on beneficial ownership to demonstrate a legitimate interest in accordance with that provision prior to the entry into force of

Directive 2018/843 (compare the judgment in *Luxembourg Business Registers*, Joined Cases C-37/20 and C-601/20, cited above, paragraph 88).

117 It must be borne in mind that Article 1(15)(c) of Directive 2018/843 required beneficial ownership information to be made accessible in all cases to any member of the general public. The statement in paragraph 41 of the judgment in *Luxembourg Business Registers* regarding beneficial ownership information enabling a profile with personal data to be "drawn up" must be understood in that specific context. As the ECJ emphasised in paragraph 42 of the judgment, access to a potentially unlimited number of persons was liable to enable that information to be freely accessed also for reasons unrelated to the objective pursued by Directive 2015/849.

118 In contrast, Article 30(5)(c) of Directive 2015/849, in accordance with the Court's interpretation, imposes safeguards that effectively protect the fundamental rights of the beneficial owners. Their personal data is only disclosed after a legitimate interest has been demonstrated, subject to the verification of the competent authority. The last subparagraph of Article 30(5) further provides that access to beneficial ownership information shall be in accordance with data protection rules, which includes those outlined in the GDPR.

119 Having regard to the foregoing, Article 30(5) of Directive 2015/849 must be interpreted as neither requiring nor precluding national legislation that requires a person requesting access to beneficial ownership information to name the entity in respect of which information is sought. The right of access to beneficial ownership information in accordance with that provision must, however, be guaranteed and implemented in such a way as to reconcile it with the principle of effectiveness and the objective of the directive. A rigid formal requirement to always specify the legal entity, without allowing the competent authority to consider the specific circumstances of the case, is liable to make the exercise of the right to access beneficial ownership information excessively difficult.

V COSTS

120 Since these proceedings are a step in the proceedings pending before the national court, any decision on costs for the parties to those proceedings is a matter for that court. Costs incurred in submitting observations to the Court, other than the costs of those parties, are not recoverable.

On those grounds,

THE COURT

in answer to the questions referred to it by the Administrative Court hereby gives the following Advisory Opinion:

In Case E-7/24 *AA*:

> **Point (c) of the first subparagraph of Article 30(5) 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 must be interpreted as meaning that persons whose only connection with money laundering, terrorist financing and associated predicate offences consists in the fact that their financial interests were harmed by a predicate offence may have a legitimate interest to access beneficial ownership information within the meaning of that provision, which must be assessed on a case-by-case basis.**
>
> **Substantiation of a legitimate interest is both necessary and sufficient in order to access information contained in the beneficial ownership register. It is for the domestic legal system of each EEA State to lay down procedural rules governing access to the beneficial owner registers. Such procedural rules must, however, be in compliance with the principles of equivalence and effectiveness. The quality and quantity of evidence which is to be required must depend on what the national court deems necessary in light of the specific facts of each case.**
>
> **Granting access to beneficial ownership information constitutes a proportionate interference with the fundamental rights of the identified beneficial owners insofar as the person requesting access can demonstrate a legitimate interest, in accordance with the Court's interpretation, under point (c) of the first subparagraph of Article 30(5) of Directive (EU) 2015/849.**

In Case E-1/24 *TC*:

> **Article 30(5) of Directive (EU) 2015/849 must be interpreted as neither requiring nor precluding national legislation that requires a person requesting access to beneficial ownership information to name the entity in respect of which information is sought. The right of access to beneficial ownership information in accordance with that provision must, however, be guaranteed and implemented in such a way as to reconcile it with the principle of effectiveness and the objective of the directive. A rigid formal requirement to always specify the legal entity, without allowing the competent authority to consider the specific circumstances of the case, is**

liable to make the exercise of the right to access beneficial ownership information excessively difficult.

Páll Hreinsson Bernd Hammermann Michael Reiertsen

Delivered in open court in Luxembourg on 7 May 2025.

Ólafur Jóhannes Einarsson
Registrar

Páll Hreinsson
President