

FINNIUS

UBO register (temporarily) closed to the public

24 November 2022

 1 MINUTE

On 22 November 2022, the Minister of Finance (the **Minister**) asked the Chamber of Commerce (*Kamer van Koophandel*, **KvK**) to temporarily stop providing information from the UBO register following a ruling by the Court of Justice of the European Union (the **Court**).

Court ruling

In response to preliminary questions, the Court ruled on the UBO register, and in particular on the sustainability of a provision of the Fourth Anti-Money Laundering Directive, as amended by the Fifth Anti-Money Laundering Directive, which stipulates that anyone can have access to the information of the ultimate beneficial owners (**UBOs**) of legal entities ([link](#)).

Public access to information about UBOs is an invasion of UBOs' privacy (see Articles 7 and 8 of the Charter of Fundamental Rights of the European Union). Such a limitation of privacy can only be justified if the limitation pursues a general interest, and the measure is appropriate, necessary and proportionate. The European legislator, according to the Court, did not sufficiently substantiate both of these aspects, and ruled that the provision stipulating that anyone can access the information on UBOs is invalid.

Impact on Dutch UBO register

In accordance with the Directive, the Netherlands has established a UBO register and has arranged the general public has access to the information contained in the UBO register. To enhance the privacy of UBOs, the Netherlands did take certain measures, including the blocking of certain UBOs and the registration of and payment by those consulting the UBO register.

The Minister indicated in a letter to the House of Representatives that the ruling gives cause to look at the provision of information on UBOs ([link](#)). Against this background, the Minister has asked the KvK to temporarily stop providing information from the UBO register. The foregoing does not alter the fact that parties still have a duty to register their UBOs as the Court's ruling does not hinder that requirement.

Since the ruling is primarily aimed at the European legislator and the European Commission, the Minister will enter into consultations with, among others, the European Commission to see what information provision is possible, also in light of supervision.

The Minister has promised to inform the House of Representatives in more detail about any (European) decision-making.

Specialists



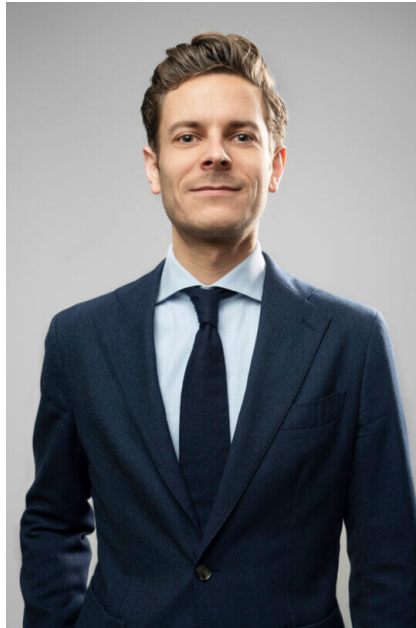
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