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Judgment of the Court in Joined Cases C-684/24 | Across Fiduciaria and Others and C-685/24 | Unione Fiduciaria and Others

Anti-money laundering: subject to a legitimate interest, the public has access to information on the beneficial ownership of trust mandates governed by Italian law

According to common practice, a trust mandate is an agreement whereby a trustee is entrusted with the management of property or rights in the interests of the settlor or other beneficiaries. Under the 4th Anti-Money Laundering Directive, ¹ Member States must ensure that trustees provide, hold and make accessible information on the beneficial owners of trusts. Those obligations also extend to other legal arrangements with a structure or functions similar to trusts.

The Italian authorities have adopted measures to implement those obligations and have considered that the Italian trust mandate (*mandato fiduciario*) constitutes such a similar legal arrangement. They therefore required trust companies to disclose information relating to beneficial ownership. Challenging that obligation, several of those companies brought proceedings before the Regional Administrative Court, Lazio (Italy), relying, in particular, on the incompatibility of the national rules transposing certain provisions of the 4th Anti-Money Laundering Directive with EU law, and the illegality of certain provisions of that directive. Following the dismissal of their actions by that court, those companies brought the matter before the Council of State (Italy), which made two different requests to the Court of Justice for a preliminary ruling concerning the validity and interpretation of those provisions. ²

In its judgment delivered today, which deals with the two cases jointly, **the Court confirms**, first of all, **the provisions the validity of which has been challenged**. The Court emphasises that, given the specific nature of the subject matter, the regulatory technique chosen by the EU legislature is **consistent with the principle of legal certainty**, in that the scope of the discretion granted to national authorities and manner of its exercise are defined with sufficient precision. Furthermore, the fact of laying down **public access to beneficial ownership information**, provided there is a **legitimate interest**, is **compatible with the rights guaranteed in Articles 7 and 8 of the Charter** of Fundamental Rights of the European Union. According to the Court, by that legislation, the EU legislature is pursuing a legitimate and important objective, namely, the prevention of money laundering and terrorist financing through increased transparency, in accordance with the principle of proportionality.

The Court holds, next, that EU law ³ permits the Italian legislature **to regard trust mandates concluded with trust companies governed by Italian law (*mandato fiduciario*) as 'other types of legal arrangements'** to which the information and access obligations provided by the Anti-Money Laundering Directive apply. The fact that the trust mandate governed by Italian law does not entail a transfer of ownership of the property concerned does not preclude such a categorisation. It considers, in that regard, that **the Italian legislature did not exceed the discretion available to it** in the context of the actual implementation of access by individuals to information on beneficial ownership.

Lastly, the Court considers that **EU law** ⁴ **permits the task of ruling on exemptions** ⁵ **from access to information**

on the beneficial ownership of a trust or a similar legal arrangement, to be entrusted, in Italy, to chambers of commerce, and thus to non-judicial administrative bodies. Nevertheless, where such an exemption is not granted, the beneficial owners concerned **must be able to obtain interim legal protection**.

NOTE: A reference for a preliminary ruling allows the courts and tribunals of the Member States, in disputes which have been brought before them, to refer questions to the Court of Justice about the interpretation of EU law or the validity of an EU act. The Court of Justice does not decide the dispute itself. It is for the national court or tribunal to dispose of the case in accordance with the Court's decision, which is similarly binding on other national courts or tribunals before which a similar issue is raised.

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The [full text and, as the case may be, an abstract](#) of the judgment is published on the CURIA website on the day of delivery.

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¹ [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. That directive was amended by [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, as well as Directives 2009/138/EC and 2013/36/EU. In the present case, the amended version of Directive 2015/849 applies.

² More specifically, the Council of State wished to know, in essence, (i) whether Article 31(1), (2) and (10), as amended by Directive 2018/843, is valid in the light of the principle of legal certainty, (ii) whether the first subparagraph of Article 31(4)(c), as amended by Directive 2018/843, is valid in the light of Articles 7 and 8 of the Charter of Fundamental Rights of the European Union, (iii) whether Article 31(1), as amended by Directive 2018/843, precludes national legislation under which trust mandates concluded by trust companies governed by Italian law (*mandato fiduciario*) fall within the concept of 'other types of legal arrangements', (iv) whether the first subparagraph of Article 31(4)(c), as amended by Directive 2018/843, precludes national legislation which allows access by individuals to information on the beneficial ownership of a trust or similar legal arrangement, and (v) whether Article 31(7a), as amended by Directive 2018/843, precludes national legislation which confers on a non-judicial administrative body the power to grant an exemption from such access to information on the beneficial ownership of a trust or similar legal arrangement.

³ Article 31(1) of Directive 2015/849, as amended.

⁴ Article 31(7a) of Directive 2015/849, as amended.

⁵ Where access would expose the beneficial owner to disproportionate risk, risk of fraud, kidnapping, blackmail, extortion, harassment, violence or intimidation, or where the beneficial owner is a minor or otherwise legally incapable.