

Abstract

The thesis deals with the issue of the beneficial owner in the light of the right to privacy. The aim of this thesis is to analyse the decision of WM and Sovim SA in the context of the issue of beneficial owner transparency and then to analyse the Czech legal regulation of beneficial owner register in the light of this decision. The thesis is divided into six chapters and uses mainly descriptive, analytical, and synthetic methods.

In the first place, the basic concepts of the thesis, namely the beneficial owner and the right to privacy, are defined. Subsequently, the thesis analyses the problematic aspects of the beneficial owner legislation from the perspective of the right to privacy, which mainly include the disclosure of information about beneficial owners to the public. Relevant case law on this issue is also presented in this part of the thesis. The fourth chapter analyses the decision of the Court of Justice of the European Union in the WM and Sovim SA case, which annulled public access to information on beneficial owners on the grounds of conflict with the right to privacy and protection of personal data under Articles 7 and 8 of the Charter of Fundamental Rights of the European Union. The Court of Justice finds the legislation not proportionate as it does not provide sufficient safeguards for the protection of privacy and the interference with privacy of beneficial owners is not necessary in view of the objective pursued.

The significance of the WM and Sovim SA decision also lies in the impact it has had on practice and EU legislation. While many EU Member States have made their beneficial ownership registers inaccessible in response to the decision, more than a third of Member States have so far done nothing. This situation should change in the future, at the latest with the transposition of the 6th AML Directive, which is expected to enter into force soon and whose preparation has been significantly influenced by the decision of WM and Sovim SA towards greater protection of the privacy of beneficial owners.

The Czech beneficial owner register regulations have not yet been changed (and are not planned to be changed soon). Thus, contrary to the conclusions of the WM and Sovim SA decisions, it not only allows public access to beneficial owner information, but also fails to provide sufficient privacy safeguards and discloses too broad a range of personal data. In the light of the right to privacy, it cannot be considered proportionate. Thus, in the future, Law No. 37/2021 Coll. on the registration of beneficial owners will have to undergo a significant change in order to transpose the 6th AML Directive. The main change will be to restrict access to the register of beneficial owners to persons with legitimate interest and to introduce a system that

will allow their identity to be verified and recorded. These and many other changes should thus ensure greater protection of the privacy of beneficial owners.

Key words:

beneficial owner, beneficial owner register, right to privacy, data protection, transparency