

Transparency International EU

The global coalition against corruption

OpenLux demonstrates the value of open beneficial ownership registers – and their shortcomings

Alessandro · Tuesday, February 16th, 2021

New revelations – known as OpenLux – released by Le Monde and the Organized Crime and Corruption Reporting Project (OCCRP) last week show once again how Luxembourg's culture of secrecy and opaque practices continue to undermine EU efforts to fight corruption and money laundering. They also point to the need for further action at EU level.

The journalists scraped data from the new beneficial ownership register website that covers more than 140,000 companies. An ultimate beneficial owner, also called a UBO, is the person who stands to profit or benefit from a corporate entity. The most common trick used by criminals and money launderers consists in setting up complex schemes to disguise the identity of the beneficial owner as a way to disconnect themselves from their dirty money.

Making data on beneficial ownership publicly available as Luxembourg did is crucial in the fight against money laundering. In this case, public access to the data has allowed researchers and journalists to identify dozens of foreign citizens who have opened companies in Luxembourg and who could be linked to corruption, embezzlement of public funds, organised crime, and tax evasion.

Among the beneficial owners identified by journalists were an arms dealer at the center of one of the biggest corruption scandals in France, the Kremlin-connected leader of one of the largest Russian criminal organisations, an ex-son-in-law of Tunisia's former dictator under sanctions between 2011 and 2020, and several members of the 'Ndrangheta, Italy's most powerful crime syndicate.

Luxembourg launched its beneficial ownership register in 2020 as part of the implementation of new EU anti-money laundering standards adopted in 2018. The fact that Luxembourg decided to make this information available free of charge (as opposed to countries such as Ireland and Germany) is a very important step that should be acknowledged. However OpenLux also highlights several worrying shortcomings and loopholes in the way the register operates.

The first limitation is data accessibility. The register is only searchable by company name, not by the name of the owner, which makes data searches and triangulation very difficult.

Secondly, the database appears to be incomplete. One year after its creation, barely half of the companies registered in Luxembourg have declared their UBO(s). For investment funds, which represent a significant share of the Luxembourg economy, the number of entities with no declared UBOs is as high as 80 per cent, according to a recent report by Transparency International.

This is not only due to failings in implementation but also derives from inadequacy of the rules themselves. In most cases, companies have not declared their UBO(s) simply because they are not required to do so as per the EU definition of a beneficial owner – which is someone who controls at least 25 percent of a company. This definition is particularly inadequate in the case of Luxembourg due to the large number of investment funds in the country. An investment fund is a pool of capital from different investors that is used to purchase a variety of assets, such as stocks, bonds and real estate. The beneficial owners in this case are the end-investors whose ownership usually never reaches the 25-percent threshold. However, collecting information about all end-investors is equally important for money laundering prevention purposes.

Lessons should be drawn from the Luxembourgish experience by other Member States and by the EU as a whole. Most notably, we call on the EU to use the review of its anti-money laundering framework, expected to take place this year, as an opportunity to revisit and amend the current definition of beneficial ownership. It should also task Member States with independently verifying the information recorded in their beneficial ownership registers.

The Member States themselves should systematically review the data to identify cases of non-compliance and apply timely and dissuasive sanctions wherever needed. In view of the interconnection of national registers at EU level, we call on Member States to adhere to open data principles, such as providing documents in machine-readable formats, when implementing their national registers.

This is all crucial if beneficial ownership registers are to serve their purpose.

This entry was posted on Tuesday, February 16th, 2021 at 10:54 am