

6. Family firms are entitled to privacy

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On Tuesday I read in this newspaper that the EU and the US have published the text of the agreement to restore the protection of European personal data in the US. American security services were able to obtain and analyse a lot of information about European users via Facebook and Google without this being restricted by agreements about privacy.

There's now a draft decision of the European Commission, which has been confirmed and accepted in letters from American government institutions. It's a brave attempt by European Commissioner Vera Jourova to implement better compliance and control, and to give citizens the opportunity to seek redress in the American courts.

Privacy is an important fundamental right. In our country it's even stipulated in the constitution. Broadly speaking it means that all citizens have the right to be left in peace within the confines of their personal life. Hence they may not be bugged, for example, and they have the right to careful handling of their personal data.

In certain cases the law can restrict this right, such as when solving crimes. Legislators also stipulate rules for the use of privacy-sensitive data, whereby they are obliged to stipulate rules to protect privacy in connection with the recording and provision of personal data.

Work is being done in Brussels on the money laundering directive, which is designed to ensure the more transparent combating of tax evasion, the funding of terrorism and money laundering practices. That goal is undoubtedly very important, particularly now. This directive includes the Ultimate Beneficial Owner (UBO) register for its implementation. This is a register in which the shareholders (together with pledge holders and usufructaries of shares) of a partnership, private limited company or unlisted public limited company must be recorded. These are private individuals with a stake of more than 25%. So they are particularly the owners of family firms.

In his letter of 10 February, the Minister of Finance informed the House of Representatives about the way in which such a UBO register should be implemented in the Netherlands. Legislators envision a register in which the name, month and year of birth, nationality, state of residence and percentage interest are recorded. It's intended to be a public system, partly because of the high costs involved in restricting access.

In the money laundering directive the register is intended for banks, notaries and law enforcement agencies that need to check details. Because our government is opting for a public system, individuals can also access the register.

Why must a record be kept in a public register of the interest that families and family members have in their company? Surely this is a breach of the right to careful handling of personal data? If obtaining such information is necessary in order to counter money laundering activity, legislators should at the very least ensure that the privacy of those families is protected, and that such a register is not made public.

Just like Facebook and Google users, shareholders in family companies also have the right to protection of their personal data!

Ingrid Faber is the CEO of Faber Halbertsma, Europe's largest supplier of wooden pallets.