

# Exchange of information request to a group of persons not individually identified

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In its judgment of 25 November 2021 in case C-437/19, the European Court of Justice of European Union ("**CJEU**") responded to questions posed by the Luxembourg Administrative Court regarding the foreseeable relevance of a request from the French tax authorities for information on a group of persons that were not identified individually and by name.

That group of persons was suspected to be the beneficial owners of two real estate properties located in France and owned through a Luxembourg company. The French tax authorities referred to these persons as a group of persons who are designated as a whole on the basis of common criteria.

The CJEU ruled that a request for information is not manifestly devoid of any foreseeable relevance, where the persons under investigation are not identified individually and by name as long as the requesting authority:

1. (i) provides as full and precise a description as possible of the group of taxpayers under examination or investigation, specifying the common set of distinctive qualities or characteristics of the persons who are part of it, in such a way as to enable the requested authority to identify those persons; and
2. (ii) explains the specific tax obligations of those persons; and
3. (iii) states the reasons why those persons are suspected of having committed the infringements or omissions under examination or investigation.

The CJEU highlighted that this interpretation is in line with Article 26 of the OECD Model

Convention which was updated in 2012 with a new commentary on that article so as to precisely allow group requests.

For any further information please contact us or visit our website at [www.elvingerhoss.lu](http://www.elvingerhoss.lu).

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