EUROPEAN
COMMISSION

Brussels, 9.3.2022
COM(2022) 87 final

REPORT FROM THE COMMISSION TO THE EUROPEAN PARLIAMENT AND THE COUNCIL

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1. INTRODUCTION

Article 32b(2) of Directive (EU) 2015/849[1] (the "Anti-Money Laundering Directive" or "AMLD") as amended by Directive (EU) 2018/843[2] ("AMLD5") requires the Commission to submit a report to the European Parliament and to the Council assessing the necessity and proportionality of harmonising the information included in national real estate registers of Member States and assessing the need for the interconnection of those registers. Notwithstanding that the deadline for submission of this report was set at 31 December 2020, the Commission chose to put its adoption on hold so that the assessment could be taken into account in the preparation of the anti-money laundering and countering the financing of terrorism (AML/CFT) package of legislative proposals it adopted on 20 July 2021[3].

The AMLD includes a number of measures to address and mitigate money laundering and terrorist financing (ML/TF) risks in the real estate sector. These encompass the inclusion of notaries and other legal professionals participating in real estate transactions, as well as real estate agents within the scope of the entities subject to AML/CFT obligations and, following changes introduced by AMLD5, making information on real estate ownership available for national AML/CFT authorities. Article 32(b)(1) of AMLD requires Member States to provide Financial Intelligence Units (FIUs) and competent authorities with access to information which allows the identification in a timely manner of any natural or legal persons owning real estate, including through registers or electronic data retrieval systems where such registers or systems are available.

In order to fulfil the requirements of Article 32(b)(2), this report includes (i) an analysis of the current state of play of land registers, (ii) a description of how access to real estate registers can assist FIUs and competent authorities, as well as (iii) the assessment of benefits, weakness and requirements for both harmonisation of information included in the registers and the interconnection of such registers. Based on these elements, an initial assessment of proportionality and necessity of harmonisation and interconnection is made.

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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 (Text with EEA relevance), OJ L 141, 5.6.2015, p. 73–117, as amended by Directive (EU) 2018/843 of the European Parliament and of the Council of 30 May 2018.

[2] 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, and amending Directives 2009/138/EC and 2013/36/EU, OJ L156, 19.6.2018, p. 43-74.

[3] https://ec.europa.eu/info/publications/210720-anti-money-laundering-countering-financing-terrorism_en

The preparation of this report was assisted by an independent study by an external contractor commissioned in 2020[4]. The study mapped information on the Member States' real estate registers, analysed past and current initiatives to interconnect the registers and harmonise the information they contain. This report is also built on information from a study commissioned by the Commission in 2014[5] that presented the results of a business and a technical study forming the preliminary work toward building a land register interconnection in the European e-Justice Portal.

This report uses the term "real estate register" as a term covering both land registers[6] and cadastre registers[7], which can both include information allowing the identification of a natural or legal person owning real estate. Those registers generally operate in a complementary fashion, with land registers providing official recording of rights through deeds or title and cadastres offering a public inventory of real property. In practical terms, in any potential harmonisation and/or interconnection project, the Member States should identify the relevant national registers on a case-by-case basis and include both land and cadastre registers if those are distinct under their national law.

2. STATE OF PLAY

2.1. Registers containing information on real estate owners in Member States

The real estate registers in Member States vary considerably in terms of organisation, centralisation, the digitalisation level and their respective content.

Most Member States have organised data concerning real estate property in two registers – a land register and a cadastre register. Eight Member States manage their land registers together with the cadastre[8]. Some Member States have also chosen to set up separate databases for special purposes – for example, for tax identification of the real property[9] or for purchase price and/or transaction details[10].

During the long history of registering real property information, which dates back to the 19th century, two prevalent systems of registration have emerged – a deed recording system and a title registration system. A deed is a record of a particular transaction. It serves as evidence of a specific agreement (such as the sale of real estate), but it is not itself a proof of the legal right of the transacting parties to enter into and consummate the agreement[11]. Under the alternative system, where the titles are registered, the title registration is a proof of

[4] European Commission, Directorate-General for Financial Stability, Financial Services and Capital Markets Union, *Study on the harmonisation and interconnection of real estate registers : final report*, Publications Office, 2021, https://data.europa.eu/doi/10.2874/068191; hereinafter 'European Commission (2021)'.
[5] European Commission, Directorate-General for Justice, Schmitz, P., Athanasiou, P., Torrinha, P., et al. *Land Registers Interconnection feasibility and implementation analysis*, Publications Office, 2015, https://data.europa.eu/doi/10.2838; hereinafter 'European Commission (2015)'.
[6] Land register is understood as a public register of deeds or rights concerning real property.
[7] Cadastre is a systematic description of the land units within an area. The description is made by maps that identify the location and boundaries of every unit, and by records. In the records, the most essential information is the identification number and the area of the unit, usually differentiated by land use class.
[8] Cyprus, Denmark, Hungary, Lithuania, Romania, Slovakia, Slovenia and Estonia.
[9] Portugal and France.
[10] Germany and Finland.
[11] European Commission (2015), p. 273.

ownership. Currently, 23 Member State have a title system or both systems, while 4 have a deed system only[12]. In some Member States, there has been a gradual move from the deeds system to the title system, but there have been no changes in the opposite direction[13].

For many Member States, the different kinds of registers described above are centralised at the national level – that is, they cover the whole area of a country. However, this is not the case for France[14]. Germany and Italy[15]. Spain has a mixed system: although it has more than 1 000 land registers with exclusive competences and databases, it also provides a national interconnected platform[16]. Greece has a similar system, with the land register database managed centrally for the whole country by a company and updated by the local land registrers based on their transactions[17].

Most Member States have digitalised registers, accessible online. Yet exceptions exist. In France, the data held by local registers, although digitised, are not accessible online, and results of queries are provided manually, in an asynchronous way (apart from the Alsace and Moselle regions)[18]. The Luxembourg register is also off-line[19].

2.2. The role and purpose of real estate registers in the Single Market

The primary purpose of data in real estate registers is legal certainty as to property rights and rights of third parties with regard to a given real estate unit. Besides public authorities, citizens and professionals use data stored in real estate registers, most often based on a legitimate interest related to a potential exchange of ownership or a claim as a third party. Real estate registers may be used domestically also used in a cross-border situations, thus having a Single Market dimension are. The following list presents a non-exhaustive overview of circumstances in which real estate registers may be used cross-border:

- One typical use of real estate registers is in the context of purchase of real estate in another Member State. Citizens and professionals may wish to check the legal status and burdens of a property located abroad or the accurate registration of owned property[20].

[12] Ibid, p. 145-146, not including UK. The Member States with a title system or both systems are Austria, Bulgaria, Cyprus, Czechia. Germany, Denmark, Estonia, Greece, Spain, Finland, France, Croatia, Hungary, Ireland, Italy, Lithuania, Latvia, Malta, Poland, Portugal, Sweden, Slovenia and Slovakia. Member States with a deed system only are Belgium, Luxembourg, the Netherlands and Romania. In France, Alsace and Moselle regions follow the title-recording model (as opposed to the rest of the country). The same is true for the autonomous province of Trento in Italy.

[13] European Parliament – Study for the JURI Committee, *Cross Border Acquisitions of Residential Property in the EU: Problems Encountered by Citizens*, 2016, p. 58-59.

[14] France has 120 local property registers, which are not interconnected.

[15] In Italy, some regions maintain separate registers, but most of the country is covered by one register.

[16] Touriñán T, "The Spanish Land Registration system and the IMOLA project", in: *IMOLA II Project (The European Land Register Document (ELRD): A common Semantic Model for Land Registers Interconnection)*, p. 248, 252.

[17] https://e-justice.europa.eu/content_land_registers_in_member_states-109-el-en.do?member=1

[18] European Commission (2015), p. 242-243.

[19] Ibid, p. 216.

[20] Moerkerke J., "IMOLA II, the ELRA's commitment with European citizens: opening a collaboration framework with EU authorities", in: *IMOLA II Project (...)*, p. 29.

- Real estate registers can be consulted in the context of judicial proceedings connected to immovables[21], including execution of judicial decisions.
- Real estate registers can also be consulted for the purpose of information exchange between tax authorities. Under Directive 2011/16/EU[22] information on income and ownership of immovable property is automatically exchanged on a cross-border basis between the tax authorities of the Member State in which the property is located and the tax authorities of the Member State in which the property owner is resident.
- Real estate registers can be used to obtain information on burdens. This can be the case, for example, of consultations by financial institutions in the context of granting loans and mortgages.
- Authorities can consult real estate registers in the context of proceedings concerning tax liabilities, including recovery of taxes, duties and other measures governed by Directive 2010/24/EU[23].
- Consultation of real estate registers can also take place in the context of succession cases. In particular, Regulation (EU) No 650/2012[24] requires the authority issuing a European certificate of succession to verify the information concerning property owned by the deceased.
- In the context of bankruptcy proceedings, searches of the real estate registers can be performed by an authority but also by creditors.

2.3. Interconnection initiatives

To date, there have been some EU-level initiatives concerning the interconnection of national land registers.

The Land Registers Interconnection (LRI) is an ongoing project funded by the European Union's Justice Programme[25], which Members States can join on a voluntary basis[26]. It aims to provide a single access point through the European e-Justice Portal[27] to the land registers of participating Member States. The first phase of the project resulted in the creation of a technically operable interconnection of the land registers of Austria and Estonia. The prospective service is publicly available as a demo[28]. The second LRI Member State interconnection project, supported by EU funding, started in March 2020 and ended in

[21] M. Cuccaro, "The ELRD as a source of information for courts in Cross-border matters", in: *IMOLA II Project (...)*, p. 221. In particular: "(…) *from a purely practical point of view it can be extremely useful to know with certainty whether the plaintiff has correctly publicized the existence of the legal proceedings in the competent Land Registry, which may be located in a different Member State that the one where the judge having jurisdiction is deciding over the transnational dispute."*

[22] Council Directive 2011/16/EU of 15 February 2011 on administrative cooperation in the field of taxation and repealing Directive 77/799/EEC

[23] Council Directive 2010/24/EU of 16 March 2010 concerning mutual assistance for the recovery of claims relating to taxes, duties and other measures OJ L 84, 31.3.2010, p. 1–12 and European Commission (2021), p. 29.

[24] Regulation (EU) No 650/2012 of the European Parliament and of the Council of 4 July 2012 on jurisdiction, applicable law, recognition and enforcement of decisions and acceptance and enforcement of authentic instruments in matters of succession and on the creation of a European Certificate of Succession, OJ L 201, 27.7.2012, Article 66(5).

[25] Regulation (EU) 2021/693 of the European Parliament and of the Council of 28 April 2021 establishing the Justice Programme and repealing Regulation (EU) No 1382/2013 (OJ L 156, 5.5.2021, p. 21–38).

[26] For more information see https://lri-ms.eu/

[27] https://e-justice.europa.eu/

[28] https://lri-ms.eu/outcomes

October 2021. Within the project, Latvia connected its land register to the LRI service platform. Hungary, Portugal and Spain undertook a thorough analysis for gaining full understanding of the country-specific conditions to be met before launching the development of the national LRI connection.

In its 2020 Communication "Digitalisation of justice in the European Union. A toolbox of opportunities", the Commission stated that to exploit the full potential of the LRI, it should extend EU-wide, with the objective to ensure full participation of Member States by 2024.[29]

IMOLA (Interoperability MOdel for LAnd registers) is a project of the European Land Registry Association, co-funded by the European Union's Justice Programme[30]. The project aims to produce a common template for EU-level organisation of information contained in real estate registers, connected to explanatory material in different languages. The main achievement of IMOLA is the creation of a "European Land Register Document" concept – a template for organising land register information at EU level including a semantic model[31].

3. REAL ESTATE AND REAL ESTATE REGISTERS IN THE MONEY LAUNDERING AND TERRORIST FINANCING CONTEXT

This chapter looks into the ways in which the real estate registers can be used in the AML/CFT context.

3.1. Risk factors and common misuses of the real estate sector for money laundering and terrorist financing purposes

According to the Financial Action Task Force (FATF), the purchase of real estate is a common outlet for criminal proceeds, with real estate properties representing around 30% of the criminal assets confiscated worldwide between 2011 and 2013[32]. Whilst it is difficult to obtain data on the magnitude of ML/TF in the sector, the European Union Law Enforcement Agency (Europol) predicts that in the medium term, as a result of the COVID-19 pandemic, the real estate and construction sectors will become even more attractive for money laundering.[33] The European Commission's 2019 assessment of the risk of money laundering and terrorist financing affecting the Single Market and relating to cross-border activities[34] (the "supranational risk assessment") assessed the level of vulnerability of the real estate sector to terrorist financing as significant and to money laundering as significant/very significant[35].

Real estate plays a role mainly in the final stage of the money laundering cycle, namely in the integration phase[36]. It allows the integration of illicit funds into the legal economy, to return

[29] COM(2020)710 final, pp 13-14.
[30] https://www.elra.eu/imola/
[31] Ibid.
[32] FATF, *Money Laundering and Terrorist Financing Vulnerabilities of Legal Professionals*, 2013, p. 24.
[33] Europol, *Beyond the Pandemic: How COVID-19 Will Shape the Serious and Organised Crime Landscape in the EU*, 2020, p. 12.
[34] SWD(2019)650 final.
[35] Ibid, p. 171.
[36] European Commission (2021), p. 37.

the proceeds to criminals, and even to generate legitimate income[37]. Real estate is also generally an appreciating asset, which, if sold, can provide a legitimate reason for the appearance of funds[38].

Common methods used by criminals often involve complex schemes to acquire real estate – from the use of complex loans or credit finance, intermediation via professionals, the use of corporate vehicles, manipulation of the appraisal or valuation of a property, the use of monetary instruments such as cash or cheques, the use of mortgage schemes or the use of properties to conceal money generated by illegal activities[39].

3.2. The use of real estate registers in the AML/CFT context

Information contained in real estate registers can help competent authorities and FIUs in a number of ways. The study completed in support of this report, which included targeted consultations of AML/CFT authorities, confirms that, overall, they are satisfied with the speed of cross-border information exchange on real estate between FIUs and competent authorities, as well as with the information contained in the real estate registers, as it generally allows identification of proprietorship and information on the real estate.[40] However, while advantages could be achieved through the harmonisation of the information contained in real estate registers and the access of FIUs and competent authorities to real estate registers of other Member States, it is important to note that not all information relevant for FIUs and competent authorities can be retrieved through such registers.

The use of complex schemes involving "shell companies", complex ownership structures including trusts or companies established in low-transparency jurisdictions, or nominees is a common ML/TF typology in the real estate sector. According to the 2019 supranational risk assessment, private sector representatives consider it a major challenge to identify the beneficial ownership of a property, in particular when the seller and buyer transact using trusts. A survey among FIUs showed that 61% of the respondents saw real estate transactions done only by third parties and intermediaries as a common operative scheme used for ML/TF involving the real estate sector. This was followed by 44% of respondents who chose use of corporate vehicles, trusts or nominees, and 39% who indicated that the difficulty in establishing the real identity of the owner, renter or investor in real estate is a major problem[41].

Real estate registers can be used, together with other interconnected registries available to FIUs and competent authorities, e.g. beneficial ownership registers, to detect ML/TF cases where the techniques described above are used, as they can provide reliable, complementary and up-to-date information on present, and in some cases, past owners of a real estate property. In a survey among competent authorities and obliged entities, over 80% of respondents said information on past and present proprietorship is useful in their work[42]. At

[37] European Parliamentary Research Service, *Understanding Money Laundering through Real Estate Transactions*, 2019, p. 2 and European Commission (2021), Ibid.
[38] FATF, *Money Laundering and Terrorist Financing Vulnerabilities of Legal Professionals*, 2013, p. 44.
[39] FAFT/OECD, *Money laundering and terrorist financing through the real estate sector*, 2007.
[40] European Commission (2021), p. 87, 91 (content of real estate registers), and 101-102 (cross-border exchange of information).
[41] European Commission (2021), p. 50. Choosing more than one answer was possible.
[42] Ibid, p. 90.

the same time, some of them reported that information on ownership rights is sometimes missing, and lack of additional personal information, such as a personal identification number, prevents the identification of the beneficial owner[43].

Typologies of ML/TF through the real estate sector also include unusually priced properties: either above or below the market value of the property[44]. A common element is also the lack of coherence between the declared income/wealth of the buyer and the value of the real estate property[45]. Against this background, 63% of respondents indicated that price of the property is an important piece of information. Respondents have also said that purchase price or valuation of the property is missing from the register[46]. The most recent data on the inclusion of such information is from 2014. Then, data on purchase price was stored in the real estate registers of 14 Member States[47] and for further six Member States it was stored but was either not registered in any register or registered separately from the real estate register[48]. Linked to this is the absence of historical records on the transfer of real estate ownership, means of payments (particularly given the rising trend in purchase of real estate using cash) and purchase contracts.

Respondents have also indicated concerns with regard to the accuracy of the information contained in the registers (e.g. the description of the property is not/no longer accurate) and its completeness (condominiums, despite being widespread in the market, are not included in all registers).

The next section analyses the pros and cons of interconnecting real estate registers. It does so from the strict perspective of the AML/CFT framework and the use made of these registers for the purposes of preventing and combating cross-border money laundering and terrorism financing that involve the real estate sector.

4. HARMONISATION OF THE INFORMATION INCLUDED IN THE REAL ESTATE REGISTERS

For the purposes of this report, harmonisation of the information in the real estate registers means creating a minimum dataset regarding real estate property that would be provided by all Member States.

Harmonisation of the information currently available in the registers would probably not suffice to address the needs of AML/CFT authorities. Information typically needed by FIUs and competent authorities, such as seller/buyer identification data, property price, date of sale or ownership change (including a record of ownership transfers), is generally not available in the registers. Thus, any potential harmonisation should be accompanied by additional data collected and stored in the registers to be of added value for AML/CFT purposes.

[43] Ibid.
[44] OECD, *Money Laundering and Terrorist Financing Awareness Handbook for Tax Examiners and Tax Auditors*, 2019, p. 48; FATF, *Risk-Based Approach Guidance for Real Estate Agents*, 2008, p. 22 and European Commission (2021), p. 38.
[45] European Commission (2021), p. 51.
[46] Ibid, p. 91
[47] Austria, Belgium, Bulgaria, Cyprus, Denmark, Estonia, Greece, Spain, Lithuania, Luxembourg, Latvia, Netherlands, Romania and Sweden and European Commission (2015), p. 171-175.
[48] Ireland, Germany, Finland, Portugal, Czechia, Slovakia, Ibid.

At the same time, access to such information should be carefully designed, as making it available for other purposes might not always be proportionate.

4.1. Benefits

Harmonisation of the information contained in the real estate registers can have a number of benefits, which go beyond the prevention and combating of money laundering, its predicate offences, and terrorist financing. Harmonisation can be a trigger to complete the digitalisation of the national real estate registers and enhance accessibility, making them fit for the digital age. In addition, harmonisation can be conducive to legal certainty, as a common structure with clarity on terminology and legal value of information stored can itself contribute to more transparent and reliable information. Harmonisation of the data contained in the real estate registers would also enable faster access to and use of the information. Finally, the availability of harmonised information in the real estate registers would facilitate identification of property ownership, whether nationally or in other Member States. It would therefore contribute to financial intelligence, financial investigations but also in the freezing and confiscation of assets.

4.2. Drawbacks and constraints

Real estate registers have developed into their current shape within the context of specific national systems of property organisation.

Article 345 is an expression of the principle of the neutrality of the Treaties in relation to the rules in Member States governing the system of property ownership. However, that does not mean that those rules are not subject to the fundamental rules of the European Union, which rules include, inter alia, the prohibition of discrimination, freedom of establishment and the free movement of capital.[49] In other words, Article 345 TFEU would not stand in the way of harmonisation of such issues as collection, storage and presentation of a set of commonly defined data, as long as it respects the fundamental principles of Union law and in particular the Union's neutrality in relation to the rules in Member States governing the system of property ownership.

Due to the legal, political, organisational and historical difference between registers across the EU, harmonisation of real estate registers would require significant efforts by Member States, since it might trigger significant redistribution of tasks, revision of national legal frameworks and review of and changes in the set-up and functioning of the registers.

The sole harmonisation of the information already contained in the registers would imply administrative and financial costs. As noted under point 4.2, harmonisation of data would require changes to legislation, a review of the registers' functioning and possibly a redistribution of competences at the national and sub-national level. An attempt at estimating such costs places them at a reasonable level when only the registers are concerned (with staffing needs calculated at 3 full-time equivalent and a one-off cost of EUR 50 000 per

[49] Judgment of the European Court of Justice in Joined Cases C-105/12 to C-107/12, Essent NV and others, points 29 to 36; Opinion of the European Court of Justice in Opinion procedure 2/15 (Singapore), point 107.

Member State, with limited recurring costs[50]), but this does not take into account costs that are more difficult to estimate such as changes to legislation and reallocation of competences. More reliable estimates could only be drawn up on the basis of precise harmonisation models.

4.3. Conclusions

While the estimated costs of harmonising real estate registers are small, they can only be regarded as partial and therefore do not provide an accurate picture of the implications from such a harmonisation. More importantly, from an AML/CFT perspective, the only possible harmonisation that could be achieved is that of information pertinent to the prevention and combat of ML/TF. However, as noted above, most of the information necessary for AML/CFT authorities is not contained in the real estate registers. Coversely, most of the information contained in the real estate registers, which is not relevant to AML/CFT, could not be harmonised for AML/CFT purposes.

5. INTERCONNECTION OF NATIONAL REAL ESTATE REGISTERS

Interconnection of real estate registers could come in a number of forms. It could follow the example of the beneficial ownership registers interconnected under the AMLD through a common interface in the e-justice portal. Alternatively, it could be a central system drawing information from the national real estate registers and presenting it in a harmonised manner.

5.1. Benefits

The interconnection of national real estate registers at EU level would facilitate cross-border access to information contained in the national registers of all Member States. It would not only support more effective implementation of EU rules in civil and criminal justice matters and improving access to justice, but could also serve more broadly as a catalyst for the internal market by facilitating cross-border transactions.

In the AML/CFT field, interconnection could provide authorities with a more comprehensive picture of the assets owned by natural or legal persons, or legal arrangements. Access to EU-wide real estate data might assist in the detection of cross-border elements when performing strategic and operational analyses, as well as in the context of financial investigations. Such an interconnection would also support faster and more effective asset freezing and confiscation measures. Beyond the AML/CFT framework, authorities working on succession cases might benefit from a smoother cross-border access to data, given the estimate that one in ten succession cases in the EU has a cross-border dimension[51]. Finally, interconnection could serve as a catalyst to modernise the registers, including their full digitisation.

5.2. Drawbacks and constraints

A number of factors need to be taken into account. First, any interconnection would have to confront of the uncertainty surrounding the information contained in the register, which is closely linked to the national system in which the real estate register has developed, including in relation to the verification of the information recorded. Unless accompanied by

[50] European Commission (2021), p. 99.
[51] SEC(2009) 410 final, p. 18.

harmonisation, any interconnection might risk conveying a false impression as to the comparability of the information contained in the registers. Linked to the issue of information comparability is information exhaustiveness. While not all relevant information is stored in the real estate registers, interconnected registers might give the false impression of containing all information that competent authorities need, whereas this information might be stored elsewhere. A further challenge concerns risks that the mere interconnection of the registers would not provide sufficient clarity unless terminology is correctly translated in the other languages, duly reflecting legal specificities.

Indicatively, harmonising the information contained in the real estate registers and interconnecting those registers would imply between EUR 95 000 and 320 000 in one-off costs and between EUR 50 000 and 175 000 in recurring yearly costs for Member States, depending on the level of changes to be made to the existing registers[52]. In addition, about EUR 100 000 in yearly costs would have to be borne at EU level for the management of the interconnection. As noted under point 4.3, these estimates do not take into account the cost of changes to legislation and reallocation of competences. More reliable estimates could only be drawn up on the basis of precise interconnection models.

5.3. Conclusions

The above analysis shows that the interconnection of the existing real estate registers without at least some level of harmonisation of the information contained therein would present a number of weaknesses that might offset its benefits. From a cost perspective, interconnection alone would not require significantly lower resources than when accompanied by a degree of harmonisation of the information contained in the registers[53].

6. ASSESSMENT OF PROPORTIONALITY AND NECESSITY

This report aims to provide input as regards the relevance of harmonising or interconnecting real estate registers from an exclusive AML/CFT angle. It does not aim to replace nor prejudge any assessment of proportionality and necessity of other possible initiatives by the Commission concerning real estate registers in a wider sense.

The analysis provided above shows that interconnection of real estate registers, if accompanied by the necessary level of harmonisation, could provide benefits from allowing citizens and businesses to exercise their freedoms and support effective access to justice in cross-border situations. For these reasons the Commission has envisaged that, by 2024, all Member States should participate in the interconnection of land registers[54].

From a purely AML/CFT angle, feedback provided by FIUs and competent authorities indicates that the overall speed of the cross-border exchange of real estate information is satisfactory. However, much of the information that AML/CFT authorities need is currently not stored in the real estate registers. Thus, notwithstanding the high ML/TF risks that this

[52] 18 Member States would be expected to incur costs in the lower ranges, whereas seven Member States would be expected to face costs in the higher range and two Member States would face costs in the medium range, see European Commission (2021), p. 97.
[53] Ibid, p. 99-100.
[54] COM(2020)710 final, pp. 13-14. See above, section 2.3.

sector faces, there is no compelling necessity from an AML/CFT viewpoint that would justify interconnecting real estate registers for AML/CFT purposes.

To support action by AML/CFT authorities, the Commission proposal for a 6th AML Directive expands the scope of information regarding real estate transactions that those authorities can access[55]. In parallel, in order to prevent the misuse of complex ownership structures or cash to launder money through the real estate sector, the proposal for an AML Regulation expands beneficial ownership transparency requirements to foreign legal entities that purchase real estate in the Union[56] and sets an upper limit of 10 000 EUR for payments in cash[57].

7. CONCLUSIONS

This report sets out a number of elements to be considered for a possible interconnection of real estate registers and the harmonisation of the information they contain for AML/CFT purposes only. It does not aim to replace nor prejudge any assessment of proportionality and necessity of other possible initiatives by the Commission concerning real estate registers in a wider sense.

It acknowledges the ML/TF risks to which the real estate sector is exposed and shows the benefits that interconnection and harmonisation of such registers could do in this context as well as to citizens and to the Single Market as a whole.

At the same time, the analysis in this report shows the complex and diverse landscape of real estate registers in the Member States, which is heavily influenced by historical factors and the different national property law regimes.

Therefore any possible legislative proposal concerning the interconnection and harmonisation of real estate registers should not be regarded only, nor primarily, from an AML/CFT angle. Real estate registers are not a purely AML/CFT instrument. Their core functions and the reasons behind their creation lie in the need to register a property right, planning or taxation purposes. Real estate registers primarily serve authorities other than those tasked with preventing and combating ML/TF. In addition, the AML/CFT framework focuses on granting access to competent authorities and FIUs to the information they need to prevent and combat ML/TF. As such, it could not offer the basis for a harmonisation of the information contained in the real estate registers, which has no AML/CFT relevance.

The analysis showed that, from an AML/CFT perspective, the quality of cross-border information exchange on real property ownership is satisfactory overall, and that not all information needed for AML/CFT purposes can be retrieved from real estate registers. This indicates that there is no overriding need to interconnect real estate registers for AML/CFT purposes.

[55] COM(2021)423 final, Article 16.
[56] COM(2021)420 final, Article 48.
[57] Ibid, Article 59.