



Council of the
European Union

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'I' ITEM NOTE

From: General Secretariat of the Council
To: Permanent Representatives Committee

Subject: Letter to the President of the Commission on the seat selection procedure for the Anti-Money Laundering Authority (AMLA)
- Approval of the letter

1. In follow-up to the information point relating to the seat selection procedure for the Anti-Money Laundering Authority (AMLA) that took place in Coreper on 26 April 2023, the Presidency has prepared a draft letter to the attention of the President of the European Commission.
2. In this letter, the Commission is invited to assist the co-legislators in the definition of objective criteria that could then be agreed upon between the European Parliament and the Council as a first step towards launching the selection process for the seat of AMLA. Furthermore, the Commission is invited to work on a standardised application form by means of which all candidate Member States may submit their applications.
3. The Permanent Representatives Committee is therefore invited, pursuant to Article 19(7) of the Council's Rules of Procedure, to approve the wording of the letter to the President of the European Commission, as set out in the Annex to this Note, and to authorise the Presidency to send it on behalf of the Council.

DRAFT

Brussels,

Dear Madame President,

I am writing to you with reference to the Anti-money laundering and countering the financing of terrorism legislative package that has been proposed by the Commission. In particular, I would like to express my appreciation for the proposal to create a new EU-level Anti-Money Laundering Authority (AMLA) that will transform AML/CFT supervision in the EU and enhance cooperation among financial intelligence units. This is an important step towards achieving greater transparency and accountability in the financial sector, and we are convinced that AMLA will play a critical role in combating money laundering and the financing of terrorism.

As you well know, the Council is fully committed to finding an agreement on the overall legislative package including on the selection of the seat for AMLA as early as possible and by the end of the current legislative term. The process leading to the seat selection of AMLA will bear particular importance insofar as it will, for the first time, have to take into account the judgments of the European Court of Justice of 14 July 2022 relating to the seat selection for decentralised agencies.¹ Even though the AMLA file belongs to the ECOFIN area, it is inevitable that the process that will be followed for this selection, as well as the definition of the general criteria that will be applied therein, will in practice serve as a precedent for future selections of the kind and has therefore a horizontal character.

At the Council Presidency's initiative, initial contacts took place with the European Parliament on this matter and the Presidency proposed to its interlocutors in the Parliament that we would jointly send you a letter to invite the Commission to assist us in the definition of objective criteria that could then be agreed upon between the Parliament and the Council as a first step towards launching the selection process. I regret however that, at this stage, such contacts have not allowed to identify a common suitable way forward and that the European Parliament has chosen instead to proceed separately by writing directly to Commissioner McGuinness.

¹ Judgments of the Court (Grand Chamber) in Joined Cases C-59/18 and C-182/18, *Italy and Commune di Milano v Council (Seat European Medicines Agency)*, EU:C:2022:567; Joined Cases C-106/19, C-232/19, *Italy and Commune di Milano v Council (Seat European Medicines Agency)*, EU:C:2022:568 and Case C-743/19, *Parliament v Council (Seat European Labour Authority)*, EU:C:2022:569.

Against this background, I am convinced that the Commission, acting as an honest broker as per the Treaty, will play an important role in this process, assisting to the best possible extent the co-legislators in making an objective and substantiated assessment of the offers for the AMLA seat in the most efficient manner. In this vein, I would like to invite the Commission to work as a matter of priority on the definition of objective and transparent criteria for the selection of the seat of AMLA, drawing on the general criteria set out in the 2012 Joint Statement and Common Approach on decentralised agencies². In addition, the Commission may suggest additional specific and objective criteria which relate to the scope of activities of AMLA which could be agreeable to both co-legislators. Furthermore, I would like to invite the Commission to work on a standardised application form agreeable to both co-legislators by means of which all candidate Member States may submit their offers in due course.

On the basis of this initial input from the Commission, the Council will stand ready to agree on such criteria and on a process with the European Parliament leading to the selection of the agency's seat without further delays, in an objective manner and in a way that respects the institutional balance set out by the Treaties, as interpreted by the Court of Justice of the European Union.

I thank you in advance for your attention to this matter, and I look forward to working with you to ensure a successful and timely outcome for this process.

Sincerely,

[Signature]

² Joint Statement of the European Parliament, the Council and the European Commission on decentralised agencies of 19 July 2012 and the Common Approach annexed to this Statement.