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European Union

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NOTE

From: General Secretariat of the Council

To: Delegations

Subject: Reply by Commission Vice-President Šefčovič and Commissioner McGuinness of 8 May 2023 regarding the selection criteria for the seat of the Anti-Money Laundering Authority (AMLA)

Delegations will find attached for information the reply by Commission Vice-President Šefčovič and Commissioner McGuinness of 8 May 2023 regarding the selection criteria for the seat of the Anti-Money Laundering Authority (AMLA).

E-MAIL

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Received on
08. 05. 2023

Maroš Šefčovič
Vice-President of the European Commission

Mairead McGuinness
Member of the European Commission

Brussels, 8.5.2023

Dear Minister Roswall,
Dear Mrs Poptcheva,
Dear Mr Radev,

We wish to thank you for the letter of the co-rapporteurs dated 19 April 2023 and the letter of 5 May 2023 from the Swedish Presidency to the Commission President, both requesting the Commission's support regarding the selection criteria for the seat of the Anti-Money Laundering Authority (AMLA).

The Commission attaches great importance to rapid progress in the negotiations between the European Parliament and the Council on the AML package put forward by the Commission in 2021, which aims at delivering a new comprehensive and ambitious EU regulatory and supervisory framework in the fight against money laundering and terrorism financing. We therefore very much welcome that trilogues on the package are starting on 11 May 2023, and we hope they will pave the way for real and swift progress.

The selection of AMLA's seat is a crucial step in the preparatory work for setting up AMLA. The Court's judgments of last July have made it clear that the competence for determining the location of the seat of EU agencies lies with the Union legislature in accordance with the procedures laid down by the substantively relevant provisions of the Treaty. AMLA is the first seat selection case since these judgments. The Commission therefore welcomes the requests from both co-legislators for assistance with the swift selection of the seat and stands ready to play its role in a spirit of mutual sincere cooperation. The Commission is determined to do what it can to move the process forward as quickly as possible.

The Commission services have analysed the technical needs for AMLA in relation to the seat. The Commission wishes to recall the criteria agreed by the three institutions in the Common Approach annexed to the Joint Statement of the European Parliament, the Council of the EU and the European Commission on decentralised agencies of 19 July 2012, which it continues to consider relevant and appropriate for the selection of AMLA's seat. Those criteria, which concern the accessibility and attractiveness of the agency's seat for future staff, have been used in several earlier seat selection processes and provide objective and comparable criteria that

Ms Jessika Roswall, Minister for EU Affairs
Mr Emil Radev, MEP and Co-rapporteur
Ms Eva-Maria Poptcheva, MEP and Co-rapporteur

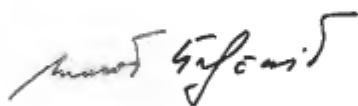
allow for assessing the suitability of a seat. The Court judgments of last year did not put in question those criteria. Both co-legislators also appear to confirm their relevance for AMLA. The European Parliament has included in its mandate criteria that in substance reflect them, and the Council explicitly refers to them in its letter.

The European Parliament has included additional criteria in its mandate, and the Council refers in its letter to possible additional specific criteria relating to the scope of activities of AMLA which could be agreeable to the co-legislators. The Commission has not identified additional criteria that it considers necessary for the operation of AMLA, but given the indications from both co-legislators, the Commission is ready to engage with them on this issue. For example, in relation to the additional criteria identified by the European Parliament on the 'quality of the national AML framework' in the Member State applying for the AMLA seat, the Commission is ready to examine with the co-legislators possible objectives and widely accepted benchmarks, for instance based on the Financial Action Task Force (FATF) Mutual Evaluation Reports.

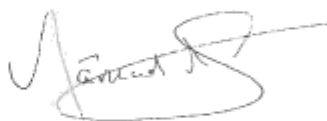
In order to facilitate negotiations, we have set out the criteria based on Common Approach in more detail, also to define quantifiable sub-criteria for the co-legislators to consider (Annex 1). Having regard to these criteria and the estimated needs of AMLA for its operations (subject to the outcome of negotiations), the Commission has also set out technical specifications for AMLA, describing the requirements in more detail (Annex 2). The Commission stands ready to develop on this basis an application form that Member States wishing to submit an application to host AMLA could use. The Commission also invites the co-legislators to discuss the process concerning Member State applications for the AMLA seat, as set out in Annex 3.

The Commission is ready to host informal technical talks in relation to the seat selection criteria and process as soon as possible. We trust that the information and the proposals provided in this letter can serve as a basis for these discussions.

Yours sincerely,



Maroš ŠEFČOVIĆ



Mairead MCGUINNESS

Annexes:

Annex 1 - Proposed criteria for the AMLA seat selection

Annex 2 – Technical specifications for AMLA

Annex 3 – Suggested process for Member State applications to host AMLA

Annex 1 - Proposed criteria for the AMLA seat selection based on the Common Approach annexed to the Joint Statement of 19 July 2012

- **The date on which AMLA can become operational on site after the entry into force of the Regulation**

This criterion concerns in particular the availability of appropriate office premises as well as the ability to host the relevant staff in time for AMLA to become operational. The application should provide information about the timeline for the availability of the premises and the estimated time needed for fit-out and adaptations works. The premises should include the necessary logistics and sufficient space for offices, meeting rooms, on- and off-site archiving, high-performing telecommunications and data storage networks, appropriate physical and IT security standards as well as the possibility to extend the premises, if relevant.

- **Accessibility of the location**

This criterion concerns the availability, frequency and duration of public transport connections from the closest international airport or international/national train station to the location. Furthermore, it covers the quality and quantity of accommodation facilities as well as the capacity to allow for the expected meeting activities of AMLA.

- **Existence of adequate education facilities for the children of AMLA's staff**

This criterion concerns the availability of multi-lingual, European-oriented schooling that can meet the needs for education facilities for the children of staff of AMLA.

- **Appropriate access to the labour market, social security and medical care for both children and spouses**

This criterion concerns the capacity to meet the needs of the children and spouses of staff for social security and medical care as well as the availability to offer job opportunities for them.

- **Geographical balance**

This criterion concerns the geographical balance in the distribution of seats of Union bodies and agencies.

Annex 2 – Technical specifications for AMLA

1. The date on which AMLA can become operational on site after the entry into force of the Regulation

1.1. The premises for AMLA

AMLA's staff would amount to **250 members**, according to the Legislative Financial Statement (LFS) in the original Commission proposal for an AMLA Regulation. These numbers may evolve during the legislative negotiations based on possible additional tasks or greater scope of direct supervision if they were decided by the co-legislators (the mandates of the co-legislators contain proposals that could bring the staff possibly **closer to 400 members**).

In the light of the above, and depending on the legislative process, the number of staff would be estimated to reach up to 150 members during its first year of operation, with the capacity to grow further and comprise approximately 300-350 members during the following 2 years of its operation before reaching probably 400 in cruising regime. The necessary logistics and adequate office space will need to be ensured to accommodate the estimated staff of AMLA.

Indicatively, and depending on the final number of staff, the size of the AMLA's premises should be up to **around 10.000 square meters gross floor area above ground** (which would comprise all the meeting rooms, office space, washrooms, corridors and archive spaces, and areas for specific uses, e.g. entrance halls, etc.). In addition, **sufficient parking space** for staff and visitors will be required in line with relevant local legislation.

In the long term, **further evolution of AMLA's mandate and staff** should be easily accommodated, ideally in its original premises or in the nearby area.

Regarding the workspace for the staff in general, a **flexible workspace approach** might be considered for AMLA. For all new and renovated buildings of the European Commission and its Executive Agencies, a so called 'dynamic collaborative space' approach is being implemented whereby staff do not have an assigned desk, but members of the same unit will use desks in the same zone; more generally the flexible workspaces are open plan offices with different zones depending on the types of work (individual desks for individual work; closed quiet rooms for concentration; social space (e.g., in the kitchenette); project-working space (with modular tables).

The premises should be in **general compliant with the requirements set out in the Commission's Manual of Standard Building Specifications** including for **environment performance standards** addressed under section I.1.5 Environment¹.

AMLA will require **meeting rooms of different sizes**. For security and logistical (incl. catering) reasons, for 'external meetings' (which involve participants from outside AMLA), it should be considered to locate the General Board meeting room as well as other relevant meeting rooms in a separate area of the premises.

¹ See https://commission.europa.eu/system/files/2022-03/mit-1-performance-and-technical-performance-specification-v1-2_en.pdf

- For meetings of the **General Board**, in both supervisory and Financial Intelligence Unit (FIU) compositions, and of working groups established by the General Board, the premises should have at least:
 - one very large meeting room with a total surface of 240-280 m² with a table accommodating at least 50 persons at the front row, at least 60 persons at the second row and 30-40 seats on the sides in an auditorium mode.
- In addition, the premises should at least the following **additional meeting rooms and areas**:
 - two big meeting rooms (seating more than 40 participants);
 - two medium-sized meeting rooms (seating 25-35 persons);
 - one smaller meeting room (seating 13-15 persons);
 - a lounge area for lunch and/or dinner catering.

1.2. Specific requirements for Financial Intelligence Unit (FIU)-related work

The premises should also meet the **specific requirements for the Financial Intelligence Unit (FIU) and FIU-related work**. This includes first a dedicated area with around 30 individual offices for the FIU delegates. FIU delegates will deal with sensitive information coming from their own FIU and they are bound by national confidentiality rules. FIU work related requirements also include **three operational analysis facilities; these are secure and isolated operational rooms/facilities meeting rooms** where several analysts can meet in parallel, with access to the data of the joint analysis and analytical software. These three rooms shall be accessed only by authorised persons and equipped with IT terminals enabling the appropriate communication tools as well as analytical software which can be used as a supplementary tool to FIUs' software.

1.3. Availability of the premises and details to be provided in the application

The **availability of appropriate office** premises as well as the ability to host the relevant staff in time would be critical for AMLA to be set up and become operational upon the entry into force of the Regulation.

Each application should specify in detail:

- the date on which the AMLA can become operational on site upon the entry into force of the Regulation, which would be based on the availability of appropriate office premises and the ability to host the relevant staff; here a distinction should be made in the application form between the timeline for the availability of the premises and the estimated time needed for fit-out and adaptations works;
- the description of the premises that would be offered either to be rented by or to be put at the disposal of AMLA;
- how these premises meet environmental, security and safety standards, in line with the Commission Manual of Standard Building Specifications;

- the terms for AMLA's use of the premises, specifying monthly rental costs and whether the Member State would pay the rent for a given period of time or indefinitely. Information should also be provided on the financial conditions of termination before the end of the lease;
- the terms for the set-up, specifying the total estimated cost for set-up, including fit-out, of the premises and whether the Member State would cover these costs;
- the terms for the building's maintenance, specifying expected monthly maintenance costs and whether the Member State would cover these costs;
- the terms for future upgrades and extensions, specifying whether the Member State would cover these; and
- any special conditions with regard to the costs and dedicated infrastructure.

2. Accessibility of the location

AMLA is expected to organise business trips for some of its staff within Europe and to hold regular meetings at its premises or outside its premises but in its location (city) with participation of relevant stakeholders and staff of Member States supervisory authorities, therefore requiring easy access to air and rail transport linking with European capitals.

Some of the meetings organised and/or hosted by AMLA might last several days, requiring overnight stays and therefore sufficient capacity for adequate accommodation facilities (in terms of quality and quantity). The same applies in case of events and conferences organised by AMLA in its location (city) but not hosted in its premises.

Each application should provide:

- information concerning the availability, frequency and duration of public transport connections from the closest airport or international/national train station to the location;
- information concerning the quality and quantity of accommodation facilities.

3. Existence of adequate education facilities for the children of AMLA's staff

AMLA's staff will be nationals from all EU Member States. Therefore, the availability of multi-lingual, European-oriented schooling is crucial to meet the needs for education facilities for the children of AMLA's staff.

Each application should provide detailed information about existing educational facilities at each educational level (nursery, primary education, secondary education, higher education), including information on language options in these facilities.

4. Appropriate access to the labour market, social security and medical care for both children and spouses

AMLA's location should provide the capacity to meet the needs of the children and spouses of staff for social security and medical care as well as the availability to offer job opportunities for spouses.

Each application should explain whether the proposed location offers such accessibility to the labour market, social security and medical care.

5. Geographical balance

Each application should include information about any EU agencies and other EU bodies currently hosted in the applicant Member State.

Annex 3: Draft elements for a process for submitting Member States applications for the AMLA seat

A. Selection based on Member State applications

The AMLA seat selection will be **based on applications submitted by Member States**, given that hosting an EU decentralised agency requires a clear commitment by the Member State in question.

B. Process for submitting Member State applications

A call for Member State applications will be issued, based on the following principles:

- Each Member State can make one single application² to host AMLA in one location in that Member State.
- All applications must be made using an application form setting out the criteria.
- Member States may submit additional documentation together with the application form.
- All applications should formally be submitted in writing to [...].
- The deadline for submitting applications is [tbc]. [...] will determine the list of eligible applications, based on this deadline.
- All applications from Member States received within the deadline will be published online. Applications should not contain confidential information.
- Member States are invited to address in their applications the criteria in light of the technical specifications. In addition, the applications should indicate:
 - the description of the premises that would be offered either to be rented by or be put at the disposal of AMLA;
 - how these premises meet environmental, security and safety standards, in line with the Commission Manual of Standard Building Specifications;
 - the terms for AMLA's use of the premises, specifying monthly rental costs and whether the Member State would pay the rent for a given period of time or indefinitely;
 - the terms for the set-up, specifying the total estimated cost for set-up, including fit-out, of the premises and whether the Member State would cover these costs;
 - the terms for the building's maintenance, specifying expected monthly maintenance costs and whether the Member State would cover these costs;
 - the terms for future upgrades and extensions, specifying whether the Member State would cover these;
 - any special conditions with regard to the costs and dedicated infrastructure; and

² Which may propose more than one, but not more than three buildings.

- any benefits that would be granted to AMLA and/or its staff in addition to those following from Protocol No 7 on the Privileges and Immunities of the European Union.
- All applications should indicate the Member State's commitment to confirming the conditions in a headquarters agreement with AMLA. That agreement should be signed before AMLA takes up its seat at the determined location.

Information of the public

The call to Member States, all applications and other relevant information will be made public on a dedicated website.