



Council of the
European Union

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NOTE

From:	General Secretariat of the Council
To:	Permanent Representatives Committee
Subject:	Internal Council process for the selection of the seat of the Anti-Money Laundering Authority (AMLA)

Delegations will find enclosed the draft Internal Council process for the selection of the seat of the Anti-Money Laundering Authority (AMLA) to be discussed at the Coreper meeting of 18 January 2024.

Internal Council process for the selection of the seat of the Anti-Money Laundering Authority (AMLA)

Introduction

1. On 18 July 2021, the Commission made a proposal to establish the Anti-Money Laundering Authority (AMLA), based on Article 114 TFEU (ordinary legislative procedure). The Commission's proposal contained no reference to a specific location of the seat of AMLA.
2. On 14 July 2022, the Court of Justice (Grand Chamber) delivered three important judgments on the selection of the seats of EU agencies.¹
3. The European Parliament, the Council and the Commission ("the three institutions") agree that the location of the seat of the Anti-Money Laundering Authority (AMLA) should be selected swiftly, in order for this agency to be set up directly in the location of its seat.
4. Several rounds of discussion on the procedure to agree on the selection of the AMLA seat have already taken place between the co-legislators.
5. In June 2023, co-legislators agreed on joint criteria for the selection of the seat of AMLA.
6. On 28 September 2023, following an agreement by the co-legislators, the Commission launched the call for applications, with a deadline for Member States to send applications by 10 November.
7. On 18 December 2023, the co-legislators agreed a Common Understanding on the process for selecting the seat of AMLA ("the Common Understanding") as well as the modalities for organizing joint public hearings. These hearings are envisaged to take place on 30 January 2024.
8. The Common Understanding foresees that the final decision on the location to host AMLA's seat should be made by the co-legislators in an informal inter-institutional meeting at political-level.

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

9. It also foresees that in order to reach an agreement on the location of the seat, the Parliament's and the Council's representatives will vote together at the same time in an informal inter-institutional meeting at political-level. Representatives of the co-legislators taking part in the vote may only cast their vote for those applications whose eligibility has been confirmed by the Commission's assessment referred to above. Each co-legislator's internal discussions in preparation for this joint vote should be conducted in accordance with their respective internal arrangements and in full respect of each institutions' decision-making autonomy. In order to ensure a level playing field between the Parliament and the Council, each co-legislator will be attributed 27 votes. Each co-legislator will be free to allocate the 27 votes within its own delegation, in accordance with their internal arrangements and in full respect of each institution's decision-making autonomy.
10. In order to properly prepare the Council's position in the joint vote established by the Common Understanding, the internal process in the Council, annexed to this note, should be agreed.
11. Coreper is invited to discuss and agree on this internal process.

Internal Council process for selecting the seat of the Anti-Money Laundering Authority (AMLA)

General principles for the selection process

1. The steps and modalities set out in the Common Understanding on the process for selecting the seat for AMLA (“the Common Understanding”) agreed on 18 December 2023 ensures that the decision on the seat selection of AMLA will be taken on the basis of a fair, equitable and transparent decision-making process, in full respect of the decision-making autonomy of each institution. In order to ensure the most efficient process without affecting the substantive legislative negotiations, the process to select the location of the seat is strictly separated from those negotiations.
2. The final agreement on the location of the seat of AMLA will be made in accordance with the Common Understanding and the location of the seat resulting from that agreement will be reflected in the legislative act.

Representation of the Council during the joint vote

3. The Council delegation will be composed of one representative per Member State, accompanied by one delegate per Member State, and officials from the General Secretariat of the Council.
4. A representative from the six-monthly rotating Presidency will head the Council delegation and serve as co-Chair.
5. Where the application selected in accordance with the voting procedures set out below (paragraphs 6–9 below) was made by the Member State holding the Council Presidency, Council will designate a representative of another Council member, forming part of the trio of Council Presidencies whose Member State has not made such an application, to head the Council’s delegation.

Process to select the application to be voted for by Council representatives

6. In order to select the application to be voted for by all Council representatives during the joint vote (paragraphs 15–19 of the Common Understanding), the following process will be followed consisting of up to three voting rounds.

a) 1st voting round

In the first voting round, each delegation has one vote consisting of six voting points: three points will be allocated to the first preferred application, two points to the application which the delegation ranks second and one point to the application which the delegation ranks third. All six voting points should be allocated in this manner for a vote to be valid.

If an application receives 3 voting points from at least 14 delegations, hence being the preferred application for 14 delegations, it is the selected application.

If no application receives 3 voting points from at least 14 delegations, the three applications which receive the highest number of points will proceed to the second voting round. In case of more than three applications receiving the highest number of points, all applications that have received the same highest score will go on to the second voting round.

b) 2nd voting round

In the second voting round, each delegation has one vote (consisting of one voting point) that it can give to one of the three (or more) applications which have been chosen for the second voting round. A minimum of 21 number of votes will need to be cast in order for the voting round to be considered valid, the failing of which will lead to a repetition of this voting round.

If an application receives more than half of the votes counted, hence representing the majority, it is the selected application.

If no application receives more than half of the votes counted, the two applications which receive the highest number of votes will proceed to the third round.

In case of a tie between three (or more) applications or in the case of a tie between the applications that received the second highest number of votes counted, these will all go on to a third voting round.

c) 3rd voting round

In the third voting round, each delegation has one vote (consisting of one voting point) that it can give to one of the applications which have been chosen for the third voting round. No minimum number of votes cast will be needed in order for this voting round to be considered valid.

The application that receives the highest number of votes counted, hence representing the majority, is the selected application.

In case of a tie, lots will be drawn between the tied applications. The application drawn will be the selected application to be voted for by all Council representatives during the joint vote.

7. The application selected in accordance with the process set out above constitutes the application to be voted for by all Council representatives during the joint vote referred to in paragraphs 15–19 of the Common Understanding.

Process in case the required majority is not reached during the joint vote

8. In case the required majority during the joint vote as referred to in paragraph 19 of the Common Understanding is not reached, the Council representatives will continue to vote for the application selected. In case the impasse persists for at least five rounds of joint voting, the Council representatives will discuss the way forward.

Confirmation of the location of the seat in the legislative text

9. The Council Presidency will confirm the political choice of the location of the seat made in accordance with the Common Understanding as being the application supported by the Council. This location will then be reflected in the legislative text, as part of the final trilogue discussions on the file.