

# RegCORE Client Alert

CJEU rules EU lawmakers must be involved in choice of location of new EU authorities – what does this mean for AMLA?

December 2022

## Financial Services

CJEU rules EU lawmakers must be involved in choice of location of new EU authorities – what does this mean for AMLA?

---

**Dr. Michael Huertas**

Tel.: +49 160 973 757-60

michael.huertas

@pwc.com

**Contact RegCORE Team**

de\_regcore@pwc.com

---

---

### QuickTake

On 14 July 2022, the Court of Justice of the European Union (**CJEU** also often referred to as the ECJ) published a press release<sup>1</sup> concerning various cases that considered the location of the seat of the European Medicines Agency (which moved from London to Amsterdam following Brexit) and the European Labour Authority (which was set up in Bratislava). The CJEU's ruling in respect of those cases confirmed that European Parliament lawmakers must be involved in the process of choosing new locations for new EU authorities.

This ruling means that the process for selecting host cities to newly created (or relocations of existing authorities) needs to change, especially as previously only EU Member States chose the locations of authorities. This procedural change will likely impact the process on deciding the seat of the new proposed EU Anti-Money Laundering Authority (**AMLA**). This Client Alert assesses these developments.

---

### The planned mandate and powers of AMLA

The EU is currently in the process of revising and replacing the EU's Directives on anti-money laundering, countering terrorist financing and financial crime (collectively **AML**) with a new EU Regulation (**AMLR**). As part of those reforms, the Council of the EU published a press release<sup>2</sup> on 29 June 2022 announcing it had agreed its partial position on AMLA. The Council equally published in a press release<sup>3</sup> on 7 December 2022 agreeing its position on the AMLR – thereby significantly moving AMLR along the legislative process meaning that AMLA will equally take more of a concrete shape despite announcements in December 2022 that key

---

<sup>1</sup> Available [here](#).

<sup>2</sup> Available [here](#).

<sup>3</sup> Available [here](#).

votes on the AMLR as well as the 6<sup>th</sup> Anti-Money Laundering Directive being moved to March 2023 as a result of another landmark CJEU ruling holding that public access to beneficial ownership information in transparency registries breached privacy rules.<sup>4</sup>

According to current timelines, the EU Regulation establishing AMLA will enter into force 20 days after it is published in the Official Journal of the EU and will apply from 1 January 2024. AMLA is anticipated to contribute significantly and effectively to the fight against anti-money laundering and the financing of terrorism given the transnational character of crime. Pursuant to the AMLA Regulation, it will do this by:

- taking over the current AML standard-setting and coordination powers that are entrusted at the EU-level to the European Banking Authority (**EBA**);
- ensuring effective implementation of the existing EU AML framework across the entirety of the financial and non-financial sector in the EU's Single Market;
- establishing an EU single rulebook on AML including through the AMLR;
- bringing about EU-level AML harmonisation and coordination of supervision and methods by respective national competent authorities as well as managing the AML-CFT database operated by the European Central Bank
- establishing a support and cooperation mechanism for Financial Intelligence Units (FIUs), including by developing common templates for reporting and standards to be adopted. AMLA will also manage the secure communications network FIU.net, for now, operated by Europol;
- enforcing EU-level criminal law provisions and improving information exchange; and
- strengthening the international dimension of the EU AML framework.

In addition to other functions, it will help with the direct supervision of high-risk and international financial entities. The Council of the EU announced that AMLA, in addition to supervising AML compliance for cryptoasset service providers, would oversee up to 40 groups of credit institutions other financial services entities, at least during the initial selection process, where these are deemed "risky" (what that means remains to be finalised through various technical standards). Additionally, AMLA's general board will be granted specific powers and authority in the management of AMLA and its supervisory mandate. While the powers and nature of how AMLA would operate are largely decided, its location is not.

---

### **AMLA's location and the impact of the CJEU ruling**

---

As a result of the CJEU ruling, anyone looking for a quick decision regarding AMLA's location is likely to be dissatisfied. Legislators are currently starting over in determining how the new authority's location will be picked notably as Sweden, which assumes the rotating Presidency of the Council of the EU for the first half of 2023 has stated it plans finalise agreement on AMLA's mandate and location promptly.<sup>5</sup> EU Member States are preparing for a lobbying battle in order to secure a winning bid to host AMLA. The European Parliament has not taken a position on any of these issues.

Prior to the CJEU's ruling, the process of selecting which city would host a new authority would see EU Member States determining and voting, amongst themselves, which city would win the bid. The relocation process of the European Medicines Agency following Brexit was hotly debated and the second-choice candidate, Milan together with Italy challenged the decision in the EU courts thus leading to the CJEU ruling.

While the CJEU ruling confirmed that the European Parliament should be involved in the decision for the seat of new EU authorities, the EU Parliament has, at present, no formal framework in place to deal with such decisions. Legislators from various political groupings as well as the European Parliament's Legal Service are in the process of preparing a mechanism and ensuring that how a host city is chosen is decided on objective standards. Even the European Commission has offered to lend a hand in drafting procedures including on the selection criteria that could be applied when picking a host city.

While development of such standards are certainly welcome, they come at a difficult time for the European Parliament, given recent revelations that emerged during December 2022 concerning lobbying organisations and alleged corruption by certain Members of the European Parliament. The hope is that this will not derail efforts to establish a mechanism in order to allow AMLA's host city to be chosen. Nevertheless, it is anticipated that the decision may take a longer time to be reached than under the previous process in place prior to the CJEU's ruling.

---

<sup>4</sup> See coverage on this development [here](#).

<sup>5</sup> See coverage on this development [here](#).

---

## Outlook ahead

---

Ten EU Member States have declared an interest in hosting AMLA with France and Germany publicly declaring their candidature. Due to the proximity to international standard-setters, notably the Financial Action Task Force and the EBA, France has expressed its keen interest for AMLA to be based in Paris so that the AML powers currently in place with the EBA in Paris remain in the city should AMLA be established there.

Germany has also expressed its keen interest to host AMLA given its own measures in reforming past AML shortcomings but also given the strength of EU supervisory authorities concentrated in Frankfurt.<sup>6</sup> Luxembourg and Spain (both of which host a number of major EU institutions) as well as Austria and Lithuania (both of which host one minor institution each) have also all expressed their own interest in declaring their candidacy.

Starting 2024, AMLA's estimated annual budget is 16 million euros, rising to 30 million euros in 2025, and decreasing to 12.8 million euros in 2026. Its staff should be comprised of 100 persons at the beginning, growing to up to 250 persons after reaching an operational level. This will invariably contribute economically to a host city in addition to the prestige of hosting AMLA and its staff.

Ultimately, negotiations over which EU Member State will host AMLA will be one of the most politically contentious financial services issues in 2023, certainly if the discussion over the European Medicines Agency's relocation is any indication. In any event the CJEU ruling has certainly shaken up an already competitive process as cities look to host new EU authorities, agencies, institutions and other bodies.

---

<sup>6</sup> See coverage on that development [here](#) and [here](#).

# About us

PwC Legal is assisting a number of financial services firms and market participants in forward planning for changes stemming from these developments.

If you would like to discuss any of the developments mentioned above, or how they may affect your business more generally, please contact any of our key contacts or PwC Legal's RegCORE Team via [de\\_regcore@pwc.com](mailto:de_regcore@pwc.com) or our [website](#).

**Dr. Michael Huertas**

Tel.: +49 160 973 757-60

[michael.huertas@pwc.com](mailto:michael.huertas@pwc.com)

© 2022 PricewaterhouseCoopers Legal Aktiengesellschaft Rechtsanwaltsgesellschaft. All rights reserved.

In this document, "PwC Legal" refers to PricewaterhouseCoopers Legal Aktiengesellschaft Rechtsanwaltsgesellschaft, which is part of the network of PricewaterhouseCoopers International Limited (PwCIL). Each member firm of PwCIL is a separate and independent legal entity.

[www.pwclegal.de](http://www.pwclegal.de)