



**2023/0315(COD)**

21.11.2023

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## **DRAFT REPORT**

on the proposal for a directive of the European Parliament and of the Council  
on European cross-border associations  
(COM(2023)0516 – C9-0326/2023 – 2023/0315(COD))

Committee on Legal Affairs

Rapporteur: Sergey Lagodinsky

***Symbols for procedures***

- \* Consultation procedure
- \*\*\* Consent procedure
- \*\*\*I Ordinary legislative procedure (first reading)
- \*\*\*II Ordinary legislative procedure (second reading)
- \*\*\*III Ordinary legislative procedure (third reading)

(The type of procedure depends on the legal basis proposed by the draft act.)

***Amendments to a draft act*****Amendments by Parliament set out in two columns**

Deletions are indicated in ***bold italics*** in the left-hand column. Replacements are indicated in ***bold italics*** in both columns. New text is indicated in ***bold italics*** in the right-hand column.

The first and second lines of the header of each amendment identify the relevant part of the draft act under consideration. If an amendment pertains to an existing act that the draft act is seeking to amend, the amendment heading includes a third line identifying the existing act and a fourth line identifying the provision in that act that Parliament wishes to amend.

**Amendments by Parliament in the form of a consolidated text**

New text is highlighted in ***bold italics***. Deletions are indicated using either the ***■*** symbol or strikeout. Replacements are indicated by highlighting the new text in ***bold italics*** and by deleting or striking out the text that has been replaced.

By way of exception, purely technical changes made by the drafting departments in preparing the final text are not highlighted.

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## **DRAFT EUROPEAN PARLIAMENT LEGISLATIVE RESOLUTION**

**on the proposal for a directive of the European Parliament and of the Council on  
European cross-border associations  
(COM(2023)0516 – C9-0326/2023 – 2023/0315(COD))**

**(Ordinary legislative procedure: first reading)**

*The European Parliament,*

- having regard to the Commission proposal to Parliament and the Council (COM(2023)0516),
  - having regard to Article 294(2) and Articles 50 and 114 of the Treaty on the Functioning of the European Union, pursuant to which the Commission submitted the proposal to Parliament (C9-0326/2023),
  - having regard to Article 294(3) of the Treaty on the Functioning of the European Union,
  - having regard to the opinion of the European Economic and Social Committee of ...<sup>1</sup>,
  - having regard to Rule 59 of its Rules of Procedure,
  - having regard to the letter from the Committee on the Internal Market and Consumer Protection,
  - having regard to the report of the Committee on Legal Affairs (A9-0000/2023),
1. Adopts its position at first reading hereinafter set out;
  2. Suggests that the act be cited as 'the Sergey Lagodinsky-... Directive on European cross-border associations'<sup>2</sup>;
  3. Calls on the Commission to refer the matter to Parliament again if it replaces, substantially amends or intends to substantially amend its proposal;
  4. Instructs its President to forward its position to the Council, the Commission and the national parliaments.

### **Amendment 1**

#### **Proposal for a directive Recital 8**

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<sup>1</sup> ...

<sup>2</sup> Sergey Lagodinsky and ... led the negotiations on the act on behalf of Parliament and the Council respectively.

*Text proposed by the Commission*

(8) In order to establish a genuine internal market for the economic activities of non-profit associations, it is necessary to abolish any unjustified restrictions on the freedom of establishment, the free movement of services, the free movement of goods and the free movement of capital that still apply in the laws of certain Member States. These restrictions hinder non-profit associations from operating cross-border, not least because they impose on them a specific need to allocate resources to unnecessary administrative or compliance activities, which has a particularly deterrent effect in view of their non-profit nature.

*Amendment*

(8) In order to establish a genuine internal market for the economic activities of non-profit associations, it is necessary to abolish any unjustified restrictions on the freedom of establishment, the free movement of services, the free movement of goods and the free movement of capital that still apply in the laws of certain Member States. These restrictions hinder non-profit associations from operating cross-border, not least because they impose on them a specific need to allocate resources to unnecessary administrative or compliance activities, which has a particularly deterrent effect in view of their non-profit nature. ***The freedom of association does not only include the ability to create or dissolve an association but also the ability for that association to operate without unjustified interference by a Member State. It also includes the ability to seek, secure and use resources, which is essential to the operation of any association. In particular, Article 63 TFEU together with Articles 7, 8 and 12 of the Charter of Fundamental Rights of the European Union enshrine the freedom of association at all levels and protect non-profit organisations against discriminatory, unnecessary and unjustified restrictions regarding the financing of their activities. This principle has been further developed by the Court of Justice in its case law, including in its judgement of 10 June 2020 in Case C-78/18, Commission vs Hungary\*.***

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***\* Judgement of the Court of Justice of 10 June 2020, Commission v Hungary, C-78/18, ECLI:EU:C:2020:476.***

Or. en

## Amendment 2

### Proposal for a directive Recital 15

*Text proposed by the Commission*

(15) Trade unions and associations of trade unions should not be allowed to establish ECBAs, since they have a particular status in national law.

*Amendment*

(15) Trade unions and associations of trade unions should not be allowed to establish ECBAs, since they have a particular status in national law. ***It should however be possible for such organisations to become a non-founding member of an ECBA.***

Or. en

## Amendment 3

### Proposal for a directive Recital 16

*Text proposed by the Commission*

(16) Nor political parties and associations of political parties be allowed to establish ECBAs, as they enjoy a particular status within national law and Union law as laid down in Regulation (EU, Euratom) 1141/2014 of the European Parliament and of the Council<sup>39</sup>.

*Amendment*

(16) Nor political parties and associations of political parties ***should*** be allowed to establish ECBAs, as they enjoy a particular status within national law and Union law as laid down in Regulation (EU, Euratom) 1141/2014 of the European Parliament and of the Council<sup>39</sup>.

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<sup>39</sup> Regulation (EU, Euratom) No 1141/2014 of the European Parliament and of the Council of 22 October 2014 on the statute and funding of European political parties and European political foundations (OJ L 317, 4.11.2014, p. 1).

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<sup>39</sup> Regulation (EU, Euratom) No 1141/2014 of the European Parliament and of the Council of 22 October 2014 on the statute and funding of European political parties and European political foundations (OJ L 317, 4.11.2014, p. 1).

Or. en

## Amendment 4

### Proposal for a directive Recital 17

#### *Text proposed by the Commission*

(17) Churches and other religious organisations and philosophical or non-confessional organisations, within the meaning of Article 17 TFEU, as well as associations of these entities, should also not be allowed to establish an ECBA, due to the lack of Union competence to regulate their status, and due to them having a particular status in national law.

#### *Amendment*

(17) Churches and other religious organisations and philosophical or non-confessional organisations, within the meaning of Article 17 TFEU, as well as associations of these entities, should also not be allowed to establish an ECBA, due to the lack of Union competence to regulate their status, and due to them having a particular status in national law. ***This however should not exclude such entities from becoming a non-founding member of an ECBA. It should also not preclude organisations whose values and aims are informed by a religious, philosophical or non-confessional belief, such as faith-based, charitable non-profit organisations, from establishing an ECBA under this Directive.***

Or. en

## Amendment 5

### Proposal for a directive Recital 19 – paragraph 1

#### *Text proposed by the Commission*

The non-profit purpose of an ECBA should mean that, when a profit is generated by means of economic activities, it should be used only in pursuit of the objectives of the ECBA, as defined in its statutes, and may not be redistributed. Therefore, there should be an asset lock requiring that no distribution of assets to members is to take place, even in the event of dissolution. In the latter case, residual assets should be transferred in a disinterested manner, such as to other non-profit associations having

#### *Amendment*

The non-profit purpose of an ECBA should mean that, when a profit is generated by means of economic activities, it should be used only in pursuit of the objectives of the ECBA, as defined in its statutes, and may not be redistributed ***among members, founders or any other private parties. The direct beneficiaries of organisations aimed at providing care services for individuals with specific social needs or health conditions, should not be considered to be private parties.*** Therefore,



the same purpose.

there should be an asset lock requiring that no distribution of assets to members is to take place, even in the event of dissolution. In the latter case, residual assets should be transferred in a disinterested manner, such as to other non-profit associations having the same purpose.

Or. en

## Amendment 6

### Proposal for a directive Recital 21

#### *Text proposed by the Commission*

(21) The cross-border element of an ECBA is central. Therefore, an ECBA should carry out or have in its statutes the objective to carry out at least part of its activities across borders in the Union, in at least two Member States, and have founding members with links to at least two Member States, either based on citizenship or residence in the case of natural persons, or based on the location of their registered office in the case of legal entities.

#### *Amendment*

(21) The cross-border element of an ECBA is central. Therefore, an ECBA should carry out or have in its statutes the objective to carry out at least part of its activities across borders in the Union, in at least two Member States, and have founding members with links to at least two Member States, either based on citizenship or residence in the case of natural persons, or based on the location of their registered office in the case of legal entities. ***This does not exclude the possibility for persons with no links to a Member State to establish an ECBA together with at least two persons who have links to at least two Member States.***

Or. en

## Amendment 7

### Proposal for a directive Recital 23

#### *Text proposed by the Commission*

(23) Harmonisation throughout the Union of the key features of ECBAs' legal

#### *Amendment*

(23) Harmonisation throughout the Union of the key features of ECBAs' legal

personality and capacity and their automatic recognition across Member States and the registration procedure, without Member States laying down diverging rules on these issues, is an essential condition for ensuring a level-playing field for all ECBAs. The aspects of ECBAs' activities that are not harmonised by this Directive should be governed by the national rules that apply to the most similar **type** of non-profit association in national law. Such entities, independently of their name in the domestic legal order, should in all cases be membership-based, have a non-profit purpose, and have legal personality. To ensure transparency and legal certainty, Member States should notify the Commission **of those** rules.

personality and capacity and their automatic recognition across Member States and the registration procedure, without Member States laying down diverging rules on these issues, is an essential condition for ensuring a level-playing field for all ECBAs. The aspects of ECBAs' activities that are not harmonised by this Directive should be governed by the national rules that apply to the most similar **or most commonly used legal form** of non-profit association in national law. ***This applies, for example, with regard to national rules on the potential acquisition of a public benefit status or the application of employment legislation in accordance with the legislation in the Member State in which the relevant activities and operations take place.*** Such entities, independently of their name in the domestic legal order, should in all cases be membership-based, have a non-profit purpose, and have legal personality. To ensure transparency and legal certainty, Member States should notify the Commission ***and the ECBA committee of the legal form of non-profit association that is most similar or most commonly used in national law and of the rules applicable to such legal form.***

Or. en

## Amendment 8

### Proposal for a directive Recital 23 a (new)

*Text proposed by the Commission*

*Amendment*

***(23a) Associations are already permitted to acquire a public benefit status in all Member States, though the requirements for and implications of acquiring such a status are very diverse. Such preferential status, regardless of its exact denomination, entails a number of***

*benefits. With regard to recognising or granting a public benefit status, different approaches exist in national rules throughout the Union. In some Member States, such legal status is connected, for example, with fiscal privileges or access to public funding, and associations can decide to acquire such status in addition to their legal form, provided that they satisfy specific requirements and depending on the jurisdiction in which they operate. For example, entities legally established in the form of an association can acquire the legal status and denomination of non-profit organisations, public benefit organisations, non-governmental organisations, civil society organisations, third sector organisations, charities, provided they satisfy the legal requirements for such a status and denomination. This Directive should not affect such preferential status and should promote the activities of associations irrespective of such status under national rules. The Commission should, however, assess in the future whether it is appropriate to further develop legislation to also regulate such status at Union level.*

Or. en

## Amendment 9

### Proposal for a directive Recital 24

*Text proposed by the Commission*

(24) *To ensure that Member States have the appropriate tools to combat terrorism financing and ensure transparency of certain capital movements*, the rules applicable to ECBAs under this Directive should be without prejudice to measures adopted by Member States to prevent the misuse of non-profit associations for public policy and public

*Amendment*

(24) The rules applicable to ECBAs under this Directive should be without prejudice to measures adopted by Member States to prevent the misuse of non-profit associations for public policy and public security reasons and to ensure transparency of certain capital movements, *as part of the fight against terrorism financing*, when required by Union law, or national

security reasons and to ensure transparency of certain capital movements when required by Union law, or national law in compliance with Union law.

law in compliance with Union law.

Or. en

## **Amendment 10**

### **Proposal for a directive Recital 26**

#### *Text proposed by the Commission*

(26) ECBAs should be able to decide freely on their rules of operation. Any limitation on this freedom imposed by a Member State should be applied in a general and non-discriminatory way, prescribed by law, justified by an overriding reason in the public interest, **and** be appropriate for ensuring the attainment of the objective pursued and not going beyond what is necessary for it to be attained.

#### *Amendment*

(26) ECBAs should be able to decide freely on their rules of operation. Any limitation on this freedom imposed by a Member State should be applied in a general and non-discriminatory way, prescribed by law, justified by an overriding reason in the public interest, be appropriate for ensuring the attainment of the objective pursued and not going beyond what is necessary for it to be attained, and should be interpreted strictly by that Member State.

Or. en

## **Amendment 11**

### **Proposal for a directive Recital 27**

#### *Text proposed by the Commission*

(27) Articles 52, 62 and 65 TFEU and relevant case law also apply to ECBAs. These TFEU Articles provide for the justification of measures restricting the freedom of establishment, freedom to provide services and free movement of capital on grounds including public policy, public security and public health. Furthermore, the concept of ‘overriding

#### *Amendment*

(27) Articles 52, 62 and 65 TFEU and relevant case law also apply to ECBAs. These TFEU Articles provide for the justification of measures restricting the freedom of establishment, freedom to provide services and free movement of capital on grounds including public policy, public security and public health. Furthermore, the concept of ‘overriding

reasons in the public interest' to which reference is made in certain provisions of this Directive has been developed by the Court of Justice in its case law. Measures by Member States that are liable to hinder or make less attractive the exercise of those Treaty freedoms should be permitted only where they can be justified by objectives listed in the Treaty or by overriding reasons in the public interest recognised by Union law. While no exhaustive definition exists, the Court of Justice has recognised that justifications are possible on various grounds such as public policy, public security and public health, the maintenance of order in society, social policy objectives, the protection of the recipients of services, consumer protection, the protection of workers, provided that the other conditions are met. Such measures need, in any event, to be appropriate for ensuring the attainment of the objective in question and not go beyond what is necessary to attain that objective.

reasons in the public interest' to which reference is made in certain provisions of this Directive has been developed by the Court of Justice in its case law. Measures by Member States that are liable to hinder or make less attractive the exercise of those Treaty freedoms should be permitted only where they can be justified by objectives listed in the Treaty or by overriding reasons in the public interest recognised by Union law. While no exhaustive definition exists, the Court of Justice has recognised that justifications are possible on various grounds such as public policy, public security and public health, the maintenance of order in society, social policy objectives, the protection of the recipients of services, consumer protection, the protection of workers, provided that the other conditions are met. Such measures need, in any event, to be *duly justified, to be* appropriate for ensuring the attainment of the objective in question, *to be interpreted strictly by the Member State implementing them, and to* not go beyond what is necessary to attain *their* objective. *This is particularly relevant as many associations are active in the public interest areas mentioned in this recital.*

Or. en

## Amendment 12

### Proposal for a directive Recital 29

#### *Text proposed by the Commission*

(29) In order to ensure that ECBAs are able to effectively perform their activities and ensure equal treatment vis-à-vis non-profit associations in national law, ECBAs should not be treated less favourably than the most similar *non-profit association* in the domestic legal order of the home

#### *Amendment*

(29) In order to ensure that ECBAs are able to effectively perform their activities and ensure equal treatment vis-à-vis non-profit associations in national law, ECBAs should not be treated less favourably than *the non-profit association of* the most similar *or most commonly used legal form* in the domestic legal order of the home

Member State where it operates.

Member State where it operates.

*(This amendment applies throughout the text. Adopting it will necessitate corresponding changes throughout.)*

Or. en

## **Amendment 13**

### **Proposal for a directive**

#### **Recital 31**

##### *Text proposed by the Commission*

(31) To facilitate the cooperation among Member States and between Member States and the Commission, Member States should designate a competent authority responsible for the application of the rule transposing this Directive ('competent authority'). The Commission should publish the list of competent authorities. To have a comprehensive overview of the legal treatment of ECBAs in Member States, Member States should notify the Commission of the names and tasks of relevant authorities, other than the competent authorities, established or designated for the purposes of the national rules applicable to the most similar non-profit association in national law, if applicable.

##### *Amendment*

(31) To facilitate the cooperation among Member States and between Member States and the Commission, Member States should designate a competent authority responsible for the application of the rule transposing this Directive ('competent authority'). The Commission should publish the list of competent authorities. To have a comprehensive overview of the legal treatment of ECBAs in Member States, Member States should notify the Commission of the names and tasks of relevant authorities, other than the competent authorities, established or designated for the purposes of the national rules applicable to the most similar ***or most commonly used legal form of*** non-profit association in national law, if applicable.

Or. en

## **Amendment 14**

### **Proposal for a directive**

#### **Recital 33 – paragraph 1**

##### *Text proposed by the Commission*

In view of their non-profit purpose, ECBAs should be able to apply for funding from a public or private source in the Member

##### *Amendment*

In view of their non-profit purpose, ECBAs should be able to apply for funding from a public or private source in the Member

State(s) in which they operate on a non-discriminatory basis. There should be no restriction on the ECBA's right to receive and provide funding, except where a restriction is prescribed by law, justified by an overriding reason in the public interest, is appropriate for ensuring the attainment of the objective pursued and does not go beyond what is necessary for it to be attained and is compliant with Union law.

State(s) in which they operate on a non-discriminatory basis. ***Therefore, the same rules should apply to the ECBA as those applicable to the most similar or most commonly used legal form.*** There should be no restriction on the ECBA's right to receive and provide funding, except where a restriction is prescribed by law, justified by an overriding reason in the public interest, is appropriate for ensuring the attainment of the objective pursued and does not go beyond what is necessary for it to be attained and is compliant with Union law.

Or. en

## **Amendment 15**

### **Proposal for a directive Recital 35**

#### *Text proposed by the Commission*

(35) In order to establish a genuine internal market for non-profit associations, it is necessary to abolish certain restrictions on the freedom of establishment, the free movement of services and the free movement of capital that still apply in the laws of certain Member States. Therefore, Member States should not impose any discriminatory requirements based on the nationality of members of an ECBA or its executive body, except as provided for by this Directive. Nor should Member States provide for any requirement on physical presence of members for the validity of a meeting. To enable ECBAs to enjoy the full benefits of the internal market, Member States should not require the registered office of an ECBA to be in the same Member State as its central administration or the principal place of operations. Member States should also not impose general prohibitions on ECBAs carrying out economic activities, nor only

#### *Amendment*

(35) In order to establish a genuine internal market for non-profit associations, it is necessary to abolish certain restrictions on the freedom of establishment, the free movement of services and the free movement of capital that still apply in the laws of certain Member States. Therefore, Member States should not impose any discriminatory requirements based on the nationality of members of an ECBA or its executive body, except as provided for by this Directive. Nor should Member States provide for any requirement on physical presence of members for the validity of a meeting. To enable ECBAs to enjoy the full benefits of the internal market, Member States should not require the registered office of an ECBA to be in the same Member State as its central administration or the principal place of operations. Member States should also not impose general prohibitions on ECBAs carrying out economic activities, nor only



allow them to engage in economic activities if they are linked to an objective set out in an ECBA's statutes.

allow them to engage in economic activities if they are linked to an objective set out in an ECBA's statutes. ***In line with the right to freedom of expression, Member States should not impose any restrictions or additional requirements with regard to participation in matters of public or political debate, including, inter alia, the organisation of or participation in public interest advocacy, activism, demonstrations, whether carried out on a regular basis or on occasion, as part of the objectives of the ECBA or through its activities, irrespective of whether such participation is perceived or real. Such activities should, however, not be meant to benefit any single particular political party or political candidate.***

Or. en

## Amendment 16

### Proposal for a directive Recital 38

#### *Text proposed by the Commission*

(38) Member States should be entitled to require a registered ECBA to make a declaration, provide information, request or obtain authorisations for engaging in particular activities only where such requirements are (i) applied in a general and non-discriminatory way, (ii) prescribed by law, (iii) justified by overriding reasons in the public interest, (iv) appropriate for ensuring the attainment of the objective pursued and do not go beyond what is necessary in order for ***it*** to be attained. Such requirements may be connected, for example, to the specificities of certain sectors, like healthcare. Where Member States provide for such additional procedures, this information should be made publicly available in order to ensure that an ECBA is able to comply with these

#### *Amendment*

(38) Member States should be entitled to require a registered ECBA to make a declaration, provide information, request or obtain authorisations for engaging in particular activities only where such requirements are (i) applied in a general and non-discriminatory way, (ii) prescribed by law, (iii) justified by overriding reasons in the public interest, (iv) appropriate for ensuring the attainment of the objective pursued, ***interpreted strictly by the Member State concerned***, and do not go beyond what is necessary in order for ***the objective*** to be attained. Such requirements may be connected, for example, to the specificities of certain sectors, like healthcare. Where Member States provide for such additional procedures, this information should be made publicly



requirements.

available in order to ensure that an ECBA is able to comply with these requirements.

Or. en

## **Amendment 17**

### **Proposal for a directive**

#### **Recital 40**

##### *Text proposed by the Commission*

(40) While respecting the freedom of establishment and association, the registration of an ECBA should be denied in cases of failure to comply with the formal requirements for the registration, as laid down in this Directive, where the application is not complete or if the objectives described in the statutes contravene Union law or national law compliant with Union law. Furthermore, the registration must be rejected, if the application fails to comply with the basic requirements set out in this Directive to constitute an ECBA, namely the non-profit purpose, the minimum number of founding members and the cross-border element in terms of activities in at least two Member States and founding members with links with at least two Member States. Any refusal to register an ECBA should be made in writing and duly reasoned by the competent authority.

##### *Amendment*

(40) While respecting the freedom of establishment and association, the registration of an ECBA should be denied in cases of failure to comply with the formal requirements for the registration, as laid down in this Directive, where the application is not complete or if the objectives described in the statutes contravene Union law or national law compliant with Union law. Furthermore, the registration must be rejected, if the application fails to comply with the basic requirements set out in this Directive to constitute an ECBA, namely the non-profit purpose, the minimum number of founding members and the cross-border element in terms of *carrying out or having the objective of carrying out* activities in at least two Member States and founding members with links with at least two Member States. Any refusal to register an ECBA should be made in writing and duly reasoned by the competent authority.

Or. en

## **Amendment 18**

### **Proposal for a directive**

#### **Recital 41**

(41) Member States should be required to establish a register for the purposes of the registration and for maintaining and publishing information on ECBAs. This register should contain information about ECBAs and the submitted documents. As the information kept in the register may become outdated, Member States should ensure that the ECBA notifies any changes concerning the information on ECBAs to the competent authority and that the information held in the register is updated. ***Member States should be allowed to make use of their existing national registers for the purpose of this Directive.*** In order to ensure transparency especially for members of an ECBA and its creditors, if applicable, the ECBA certificate, the liquidation and the dissolution of an ECBA are pieces of information that should be made publicly available ***for a maximum of 6 months after*** the dissolution of an ECBA. The interoperability solutions developed as part of the implementation of the Proposal for a Regulation of the European Parliament and of the Council laying down measures for a high level of public sector interoperability across the Union<sup>42</sup> can further support Member States to move towards cross-border interoperability of their registers. To ensure that information about the existence of an ECBA is still available even after its dissolution, all data retained and stored in the register should be kept for 2 years after dissolution.

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<sup>42</sup> COM(2022)720.

(41) Member States should be required to establish a ***register or make use of an existing national*** register for the purposes of the registration and for maintaining and publishing information on ECBAs. This register should contain information about ECBAs and the submitted documents. As the information kept in the register may become outdated, Member States should ensure that the ECBA notifies any changes concerning the information on ECBAs to the competent authority and that the information held in the register is updated. In order to ensure transparency especially for members of an ECBA and its creditors, if applicable, the ECBA certificate, the liquidation and the dissolution of an ECBA are pieces of information that should be made publicly available ***until the financial year following*** the dissolution of an ECBA. The interoperability solutions developed as part of the implementation of the Proposal for a Regulation of the European Parliament and of the Council laying down measures for a high level of public sector interoperability across the Union<sup>42</sup> can further support Member States to move towards cross-border interoperability of their registers. To ensure that information about the existence of an ECBA is still available even after its dissolution, all data retained and stored in the register should be kept for 2 years after dissolution.

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<sup>42</sup> COM(2022)720.

Or. en

## Amendment 19

### Proposal for a directive Recital 44

#### *Text proposed by the Commission*

(44) To harmonise the procedure of transfer of registered office of an ECBA, Member States should ensure that a transfer of registered office is decided by the decision-making body of the ECBA concerned. The ECBA should submit the request with the relevant documents to the competent authority of the Member State to which the transfer is to be made and inform in parallel the competent authority of its home Member State when submitting the request for transfer. Where applicable, the proposed statutes of the ECBA should be amended according to the requirements of the national law of the Member State to which the ECBA requests the transfer. Upon transfer of the registered office, the ECBA becomes an ECBA under the national law of the new home Member State. This change of applicable law ensuing from the transfer of the registered office should not lead, in order to avoid duplications, the competent authority of the new home Member State to verify any element already verified during the registration in the previous Member State and harmonised by this Directive. The competent authority of the Member State to which the ECBA intends to transfer the registered office should reject the request of transfer only where the requirements laid down in national law transposing this Directive are not met and should not refuse it on other grounds. In particular, the competent authority should not reject the request on the ground of non-compliance with requirements under its national law that could not have been a ground to reject the registration in accordance with Article 19. In order to facilitate the transfer of registered office of an ECBA in the internal market, the competent authority of

#### *Amendment*

(44) To harmonise the procedure of transfer of registered office of an ECBA, Member States should ensure that a transfer of registered office is decided by the decision-making body of the ECBA concerned. The ECBA should submit the request with the relevant documents to the competent authority of the Member State to which the transfer is to be made and inform in parallel the competent authority of its home Member State when submitting the request for transfer. ***One of the relevant documents in the event of a transfer would be a report explaining the safeguards for creditors and employees, if applicable under Union or national law. Member States should ensure that the preparation of such a report does not impose an excessive administrative burden.*** Where applicable, the proposed statutes of the ECBA should be amended according to the requirements of the national law of the Member State to which the ECBA requests the transfer. Upon transfer of the registered office, the ECBA becomes an ECBA under the national law of the new home Member State. This change of applicable law ensuing from the transfer of the registered office should not lead, in order to avoid duplications, the competent authority of the new home Member State to verify any element already verified during the registration in the previous Member State and harmonised by this Directive. The competent authority of the Member State to which the ECBA intends to transfer the registered office should reject the request of transfer only where the requirements laid down in national law transposing this Directive are not met and should not refuse it on other grounds. In particular, the competent

the new home Member State should issue an updated certificate in accordance with paragraph 2 of Article 21, adapting the unique registration number and the two-letter country code of the Member State where the ECBA's office is transferred and the postal address of the registered office, as well as any other elements, if applicable..

authority should not reject the request on the ground of non-compliance with requirements under its national law that could not have been a ground to reject the registration in accordance with Article 19. In order to facilitate the transfer of registered office of an ECBA in the internal market, the competent authority of the new home Member State should issue an updated certificate in accordance with paragraph 2 of Article 21, adapting the unique registration number and the two-letter country code of the Member State where the ECBA's office is transferred and the postal address of the registered office, as well as any other elements, if applicable..

Or. en

## Amendment 20

### Proposal for a directive

#### Recital 45

##### *Text proposed by the Commission*

(45) In compliance with the freedom of assembly and of association, an ECBA should be dissolved only by decision of its members or by a decision of the competent authority of the home Member State. Where the dissolution of an ECBA is the result of a decision of its members, it should be taken by two-thirds of the votes representing at least half of the total of the members during an extraordinary meeting. The dissolution of an ECBA may be involuntary by decision of the competent authority of the home Member State of the ECBA, as a last resort, only where an ECBA does not respect its non-profit purpose, where its activities constitute a threat to public order, **or** where the members of the executive body of an ECBA have been convicted of a particularly serious criminal offence **or** the

##### *Amendment*

(45) In compliance with the freedom of assembly and of association, an ECBA should be dissolved only by decision of its members or by a decision of the competent authority of the home Member State. Where the dissolution of an ECBA is the result of a decision of its members, it should be taken by two-thirds of the votes representing at least half of the total of the members during an extraordinary meeting. The dissolution of an ECBA may be involuntary by decision of the competent authority of the home Member State of the ECBA, as a last resort, only where an ECBA does not respect its non-profit purpose, where its activities constitute a threat to public order, where the members of the executive body of an ECBA have been convicted of a particularly serious criminal offence **committed in the name,**

ECBA itself has been convicted of a criminal offence, if national law allows for this possibility. In this case, the competent authority should communicate to the ECBA a formal notice of its concerns and hear the ECBA in order to give the ECBA the opportunity to reply.

*on behalf or for the benefit of the ECBA, or the ECBA itself has been convicted of a particularly serious criminal offence, if national law allows for this possibility, or where a member of the executive body is convicted of a particular serious criminal offence committed after the creation of the ECBA, in the event that participation in the executive body by this person would be a threat to public order.* In this case, the competent authority should communicate to the ECBA a formal notice of its concerns and hear the ECBA in order to give the ECBA the opportunity to reply *or rectify the situation within a reasonable period of time, for example by replacing the convicted members concerned where applicable. Any decision for involuntary dissolution should be duly justified and interpreted strictly by the competent authorities of the Member State concerned in accordance with the principles of necessity and proportionality in accordance with the Charter of Fundamental rights of the European Union. The decision should be subject to judicial review before it becomes effective.*

Or. en

## Amendment 21

### Proposal for a directive Recital 45 a (new)

*Text proposed by the Commission*

*Amendment*

*(45a) The term ‘particularly serious criminal offence’ should be understood to mean one of the offences listed in Article 2 (2) of the Council Decision on a European Arrest Warrant\*. This notion should be strictly interpreted by Member States and applied in a non-discriminatory way. It should be understood to include terrorism, trafficking in human beings and sexual*

*exploitation of women and children, illicit drug trafficking, illicit arms trafficking, money laundering, corruption, counterfeiting of means of payment, computer crime, organised crime and participation in a criminal organisation.*

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*\* Council Framework Decision of 13 June 2002 on the European arrest warrant and the surrender procedures between Member States (2002/584/JHA).*

Or. en

### *Justification*

*Replacing former recital 48.*

## **Amendment 22**

### **Proposal for a directive Recital 46**

#### *Text proposed by the Commission*

(46) The dissolution of the ECBA should lead to its liquidation. The liquidation of ECBAs should be compliant with Regulation (EU) 2015/848 of the European Parliament and of the Council of 20 May 2015 on insolvency proceedings (EIR 2105)<sup>47</sup> which requires that the law applicable to insolvency proceedings and their effects shall be that of the Member State within the territory of which such proceedings are opened. In line with the non-profit purpose of ECBAs, any assets of a dissolved ECBA should be transferred to a non-profit entity carrying out *a similar activity as the one* carried out by the dissolved ECBA or transferred to a local authority which should utilise them for an activity like that pursued by the dissolved ECBA.

#### *Amendment*

(46) The dissolution of the ECBA should lead to its liquidation. The liquidation of ECBAs should be compliant with Regulation (EU) 2015/848 of the European Parliament and of the Council of 20 May 2015 on insolvency proceedings (EIR 2105)<sup>47</sup> which requires that the law applicable to insolvency proceedings and their effects shall be that of the Member State within the territory of which such proceedings are opened. In line with the non-profit purpose of ECBAs, any assets of a dissolved ECBA should be transferred to a non-profit entity carrying out *an activity similar to one of the activities* carried out by the dissolved ECBA or transferred to a local authority which should utilise them for an activity like that pursued by the dissolved ECBA.

<sup>47</sup> Regulation (EU) 2015/848 of the European Parliament and of the Council of 20 May 2015 on insolvency proceedings (EIR 2105), OJ L 141, 5.6.2015.

<sup>47</sup> Regulation (EU) 2015/848 of the European Parliament and of the Council of 20 May 2015 on insolvency proceedings (EIR 2105), OJ L 141, 5.6.2015.

Or. en

## Amendment 23

### Proposal for a directive

#### Recital 47

##### *Text proposed by the Commission*

(47) To enable an ECBA to prove that it has registered within a Member State and to further facilitate cross-border procedures and simplify and reduce formalities, the competent authorities should, as the final step of the registration process, issue a certificate ('ECBA certificate') which contains the essential registration information, including the name of **an ECBA**, the address of its registered office, and the names of the legal representatives. To facilitate the use of this certificate in various Member States without additional adaptations or compliance costs, the Commission should establish a standardised template available in all languages of the Union. Therefore, in order to ensure uniform conditions for the implementation of this act, implementing powers should be conferred on the Commission to produce a standardised template including in relation to the technical specifications of the template. Those powers should be exercised in accordance with Regulation (EU) No 182/2011 of the European Parliament and of the Council<sup>48</sup>. Those implementing acts should be adopted in accordance with the examination procedure referred to in Article 5 of Regulation (EU) No 182/2011 of the European Parliament and of the Council.

##### *Amendment*

(47) To enable an ECBA to prove that it has registered within a Member State and to further facilitate cross-border procedures and simplify and reduce formalities, the competent authorities should, as the final step of the registration process, issue a certificate ('ECBA certificate') which contains the essential registration information, including the name of **the association with the acronym 'ECBA' before or after that name**, the address of its registered office, and the names of the legal representatives. To facilitate the use of this certificate in various Member States without additional adaptations or compliance costs, the Commission should establish a standardised template available in all languages of the Union. Therefore, in order to ensure uniform conditions for the implementation of this act, implementing powers should be conferred on the Commission to produce a standardised template including in relation to the technical specifications of the template. Those powers should be exercised in accordance with Regulation (EU) No 182/2011 of the European Parliament and of the Council<sup>48</sup>. Those implementing acts should be adopted in accordance with the examination procedure referred to in Article 5 of Regulation (EU) No 182/2011 of the European Parliament and of the



Council.

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<sup>48</sup> Regulation (EU) No 182/2011 of the European Parliament and of the Council of 16 February 2011 laying down the rules and general principles concerning mechanisms for control by Member States of the Commission's exercise of implementing powers, OJ L 55, 28.02.2011.

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<sup>48</sup> Regulation (EU) No 182/2011 of the European Parliament and of the Council of 16 February 2011 laying down the rules and general principles concerning mechanisms for control by Member States of the Commission's exercise of implementing powers, OJ L 55, 28.02.2011.

Or. en

## Amendment 24

### Proposal for a directive Recital 48

*Text proposed by the Commission*

*Amendment*

***(48) The notion of ‘particularly serious crime’ should be defined by Member States and may include terrorism, trafficking in human beings and sexual exploitation of women and children, illicit drug trafficking, illicit arms trafficking, money laundering, corruption, counterfeiting of means of payment, computer crime and organised crime.***

***deleted***

Or. en

*Justification*

*Replaced by new recital 45a.*

## Amendment 25

### Proposal for a directive Article 2 – paragraph 1 – point e a (new)

*Text proposed by the Commission*

*Amendment*

***ea) ‘particularly serious offence’ means one of the offences listed in Article***



***2(2) of Council Framework Decision 2002/584/JHA; this notion should be strictly interpreted by Member States and applied in a non-discriminatory way.***

Or. en

## **Amendment 26**

### **Proposal for a directive Article 3 – paragraph 3**

#### *Text proposed by the Commission*

3. Member States shall ensure that an ECBA shall carry out or have in its statute the objective to carry out activities in at least two Member States and have founding members with links to at least two Member States, either based on citizenship or legal residence in the case of natural persons, or based on the location of their registered office in the case of legal entities.

#### *Amendment*

3. Member States shall ensure that an ECBA shall carry out or have in its statute the objective to carry out activities in at least two Member States and have founding members with links to at least two Member States, either:

*(a)* based on citizenship or legal residence in the case of natural persons, or

*(b)* based on the location of their registered office ***or on the citizenship or legal residence or the location of the registered office of their members,*** in the case of legal entities.

Or. en

## **Amendment 27**

### **Proposal for a directive Article 4 – paragraph 2**

#### *Text proposed by the Commission*

2. For further matters that concern the establishment or operation of ECBAs, each Member State shall ensure that the national

#### *Amendment*

2. For further matters that concern the establishment or operation of ECBAs, each Member State shall ensure that the national

rules applicable to the most similar non-profit association in national law apply to ECBAs.

rules applicable to the most similar ***or most commonly used legal form of*** non-profit association in national law apply to ECBAs..

Or. en

## Amendment 28

### Proposal for a directive Article 4 – paragraph 3

#### *Text proposed by the Commission*

3. The rules applicable to ECBAs under this Directive shall not affect the measures adopted by Member States on grounds of public policy and public security to prevent the risk of misuse of non-profit associations and to ensure transparency of certain capital movements when required by Union law or national law in compliance with Union law.

#### *Amendment*

3. The rules applicable to ECBAs under this Directive shall not affect the measures adopted by Member States on grounds of public policy and public security to prevent the risk of misuse of non-profit associations and to ensure transparency of certain capital movements when required by Union law or national law in compliance with Union law. ***Such measures shall be appropriate and interpreted strictly by the Member State that applies them, and their application shall be based on a case-by-case assessment by the Member State's competent authorities.***

Or. en

## Amendment 29

### Proposal for a directive Article 4 – paragraph 4

#### *Text proposed by the Commission*

4. By [***two years*** after the entry into force of this Directive], each Member State shall identify the most similar legal form of non-profit association in its domestic legal order as referred to in paragraph 2 and notify the Commission thereof and of the

#### *Amendment*

4. By ... [***one year*** after the entry into force of this Directive] ***and following consultation of stakeholders in line with Article 31(1a) of this Directive***, each Member State shall identify the most similar ***or most commonly used*** legal form

national rules that apply to that legal form. Member States shall notify the Commission without delay of any changes regarding the legal forms identified and of any changes to the rules applicable to them. Member States and the Commission shall make the notified information referred to in this paragraph publicly available.

of non-profit association in its domestic legal order as referred to in paragraph 2 and notify the Commission ***and the ECBA Committee referred to in Article 30,*** thereof and of the national rules that apply to that legal form. ***That notification shall be accompanied by a report following the consultation of stakeholders.*** Member States shall notify the Commission ***and ECBA Committee*** without delay of any changes regarding the legal forms identified and of any changes to the rules applicable to them. Member States and the Commission shall make the notified information referred to in this paragraph publicly available.

Or. en

## Amendment 30

### Proposal for a directive Article 4 – paragraph 4 a (new)

*Text proposed by the Commission*

*Amendment*

***4a. The constitution of an ECBA, including through conversions or mergers, as well as the transfer of an office shall not be used to undermine workers' or trade union rights or working conditions. In line with applicable collective agreements and Union and national law, the obligations regarding employees and creditors shall continue to be fulfilled and employees, volunteers, trade unions and workers' representatives shall be duly informed of such obligations and consulted in relation to them. Collective agreements and workers' board-level representation rights shall be respected and maintained.***

Or. en

## Amendment 31

### Proposal for a directive Article 5 – paragraph 2

*Text proposed by the Commission*

2. Member States shall ensure that an ECBA has the right to conclude contracts and perform legal acts, be a party to legal proceedings, own movable and immovable property, carry out economic activities, employ staff, receive, solicit and dispose of donations and other funds ***of any kind from any lawful source***, participate in public tenders, and apply for public funding.

*Amendment*

2. Member States shall ensure that an ECBA has the right to ***at least*** conclude contracts and perform legal acts, be a party to legal proceedings, own movable and immovable property, carry out economic activities, employ staff, receive, solicit and dispose of donations and other funds ***in line with Article 13***, participate in public tenders, and apply for public funding. ***The ECBA shall be allowed to do so in accordance with this Directive and without the need to register in any Member State other than the home Member State or to fulfil additional administrative requirements.***

Or. en

## Amendment 32

### Proposal for a directive Article 6 – paragraph 1 – point b

*Text proposed by the Commission*

(b) justified by overriding reasons in the public interest;

*Amendment*

(b) justified by overriding reasons in the public interest; ***and***

Or. en

## Amendment 33

### Proposal for a directive Article 6 – paragraph 1 – point c

*Text proposed by the Commission*

(c) appropriate for ensuring the

*Amendment*

(c) appropriate for ensuring the

attainment of the objective pursued and **do** not go beyond what is necessary in order for **it** to be attained.

attainment of the objective pursued, ***interpreted strictly by the Member State concerned*** and do not go beyond what is necessary in order for ***that objective*** to be attained.

Or. en

## Amendment 34

### Proposal for a directive Article 6 – paragraph 2 – point d

#### *Text proposed by the Commission*

(d) where a founding member is a legal entity, a detailed description of its statutes and a detailed description of its non-profit purpose;

#### *Amendment*

(d) where a founding member is a legal entity, a detailed description ***or copy*** of its statutes and a detailed description of its non-profit purpose;

Or. en

## Amendment 35

### Proposal for a directive Article 7 – paragraph 2

#### *Text proposed by the Commission*

2. ***Member States shall ensure that only natural persons that are Union citizens or legally resident in the Union and legal entities with a non-profit purpose established in the Union, through their representatives, may be members of the executive body of an ECBA. The executive body of an ECBA shall be composed of a minimum of three persons.***

#### *Amendment*

2. ***The executive body of an ECBA shall be composed of a minimum of three persons, which are*** natural persons ***or*** legal entities with a non-profit purpose established in the Union, through their representatives.

Or. en

## Amendment 36

### Proposal for a directive

#### Article 8 – paragraph -1 (new)

*Text proposed by the Commission*

*Amendment*

**-1. Notwithstanding the criteria for the constitution of an ECBA laid down in Article 3 (1), the membership criteria of an ECBA shall be regulated by its statutes.**

Or. en

## Amendment 37

### Proposal for a directive

#### Article 8 – paragraph 1

*Text proposed by the Commission*

*Amendment*

1. Member States shall ensure that each member of an ECBA has one vote.

1. Member States shall ensure that each member of an ECBA has one vote, ***unless the ECBA decides to allow a differentiation including by making a distinction between full members who can vote and associate members who cannot vote. In all cases, any differentiation in voting rights shall be specified in the statutes.***

Or. en

## Amendment 38

### Proposal for a directive

#### Article 11 – paragraph 1

*Text proposed by the Commission*

*Amendment*

Member States shall ensure that all decisions of competent authorities on their territory affecting the rights and obligations of ECBAs, or the rights and obligations of

Member States shall ensure that all decisions of competent authorities on their territory affecting the rights and obligations of ECBAs, or the rights and obligations of

other persons in connection to the operations of ECBAs, are subject to effective judicial review, in compliance with Article 47 Charter of Fundamental Rights of the Union.

other persons in connection to the operations of ECBAs, are subject to effective ***and independent*** judicial review, in compliance with Article 47 Charter of Fundamental Rights of the Union.

Or. en

## **Amendment 39**

### **Proposal for a directive**

#### **Article 12 – paragraph 2 – introductory part**

##### *Text proposed by the Commission*

2. Member States shall not require registered ECBAs to make a declaration, provide information, or request or obtain authorisations for engaging in particular activities, unless such requirements are:

##### *Amendment*

2. ***Without prejudice to Articles 9 to 11***, Member States shall not require registered ECBAs to make a declaration, provide information, or request or obtain authorisations for engaging in particular activities, unless such requirements are:

Or. en

## **Amendment 40**

### **Proposal for a directive**

#### **Article 12 – paragraph 2 – point b**

##### *Text proposed by the Commission*

(b) justified by overriding reasons in the public interest;

##### *Amendment*

(b) justified by overriding reasons in the public interest; ***and***

Or. en

## **Amendment 41**

### **Proposal for a directive**

#### **Article 12 – paragraph 2 – point c**

*Text proposed by the Commission*

(c) appropriate for ensuring the attainment of the objective pursued and **do** not go beyond what is necessary in order for **it** to be attained.

*Amendment*

(c) appropriate for ensuring the attainment of the objective pursued, ***interpreted strictly by the Member State concerned*** and do not go beyond what is necessary in order for ***that objective*** to be attained.

Or. en

**Amendment 42**

**Proposal for a directive**

**Article 13 – paragraph 2 – introductory part**

*Text proposed by the Commission*

2. Member States shall not impose any restrictions on an ECBA's ability to provide or receive funding, including donations, from any lawful source, except to the extent that such restrictions are:

*Amendment*

2. ***Without prejudice to Articles 9 to 11***, Member States shall not impose any restrictions on an ECBA's ability to provide or receive funding, including donations, from any lawful source, except to the extent that such restrictions are:

Or. en

**Amendment 43**

**Proposal for a directive**

**Article 13 – paragraph 2 – point b**

*Text proposed by the Commission*

(b) justified by overriding reasons in the public interest;

*Amendment*

(b) justified by overriding reasons in the public interest; ***and***

Or. en



## Amendment 44

### Proposal for a directive

#### Article 13 – paragraph 2 – point c

##### *Text proposed by the Commission*

(c) appropriate for ensuring the attainment of the objective pursued and do not go beyond what is necessary in order for it to be attained.

##### *Amendment*

(c) appropriate, ***interpreted strictly and necessary*** for ensuring the attainment of the objective pursued and do not go beyond what is necessary in order for it to be attained.

Or. en

## Amendment 45

### Proposal for a directive

#### Article 14 – paragraph 2 – introductory part

##### *Text proposed by the Commission*

2. Without prejudice to provisions of other acts of Union law, Member States shall not impose any restrictions on the activities referred to in paragraph 1, unless such restrictions are:

##### *Amendment*

2. Without prejudice to provisions of other acts of Union law ***as well as Articles 9 to 11 of this Directive***, Member States shall not impose any restrictions on the activities referred to in paragraph 1, unless such restrictions are:

Or. en

## Amendment 46

### Proposal for a directive

#### Article 14 – paragraph 2 – point b

##### *Text proposed by the Commission*

(b) justified by overriding reasons in the public interest;

##### *Amendment*

(b) justified by overriding reasons in the public interest; ***and***

Or. en

## Amendment 47

### Proposal for a directive

#### Article 14 – paragraph 2 – point c

*Text proposed by the Commission*

(c) appropriate for ensuring the attainment of the objective pursued and **do** not go beyond what is necessary in order for **it** to be attained.

*Amendment*

(c) appropriate for ensuring the attainment of the objective pursued, ***interpreted strictly by the Member State concerned*** and do not go beyond what is necessary in order for ***that objective*** to be attained.

Or. en

## Amendment 48

### Proposal for a directive

#### Article 15 – paragraph 1 – point g – introductory part

*Text proposed by the Commission*

(g) the following restrictions on the exercise of economic activities, whether carried out on a regular or on an occasional basis:

*Amendment*

(g) the following restrictions on the exercise of economic activities, whether carried out on a regular or on an occasional basis, ***unless such prohibition would allow the ECBA to access a different preferential status:***

Or. en

## Amendment 49

### Proposal for a directive

#### Article 15 – paragraph 1 – point g a (new)

*Text proposed by the Commission*

*Amendment*

***(ga) restrictions on or additional requirements regarding the participation in matters of public or political debate, whether carried out on a regular or on an occasional basis as part of the objectives of the ECBA or through its activities,***

*whether perceived or real, where such activities are not meant to benefit any single particular political party or political candidate.*

Or. en

## **Amendment 50**

### **Proposal for a directive Article 17 – paragraph 3**

*Text proposed by the Commission*

3. Member States shall ensure the conversion shall not result in the dissolution of the non-profit association that is converting or any loss ***of*** interruption of its legal personality.

*Amendment*

3. Member States shall ensure the conversion shall not result in the dissolution of the non-profit association that is converting or ***in*** any loss ***or*** interruption of its legal personality.

Or. en

## **Amendment 51**

### **Proposal for a directive Article 17 a (new)**

*Text proposed by the Commission*

*Amendment*

#### ***Article 17a***

##### ***Merger of existing ECBAs***

***1. Member States shall ensure that two or more ECBAs established in the same or in different Member States may merge where:***

***(a) one or more ECBA, on being dissolved without going into liquidation, transfers all its assets and liabilities to another existing ECBA, being the acquiring ECBA, or***

***(b) one or more ECBA, on being dissolved without going into liquidation, transfers all its or their assets and***

*liabilities to an ECBA that it or they form, being the newly established ECBA.*

*2. Member States shall ensure that any merger is approved by the decision-making bodies of the merging ECBAs.*

*3. Member States shall ensure that mergers do not result in the dissolution or any loss or interruption of the legal personality of the acquiring ECBA and that legal continuity is unaffected in the event of a merger that results in a newly established ECBA.*

*4. Member States shall ensure that all assets and liabilities are transferred to the acquiring or newly constituted ECBA, as applicable.*

*5. Member States shall ensure that the merger shall take effect, as applicable, upon registration of the newly established ECBA in accordance with Article 19 or from the date from which the transactions of the acquired ECBAs are to be treated for accounting purposes as being those of the acquiring ECBA.*

*6. Member States shall ensure that the entry concerning the ECBAs that merged, apart from the acquiring ECBA where applicable, are removed from any register.*

Or. en

## Amendment 52

### Proposal for a directive

#### Article 18 – paragraph 1 – subparagraph 1 – point e

##### *Text proposed by the Commission*

(e) the written agreement of the founding members or minutes of the constitutive meeting of the ECBA containing such an agreement, duly signed by the founding members, or the decision

##### *Amendment*

(e) the written agreement of the founding members or minutes of the constitutive meeting of the ECBA containing such an agreement, duly signed by the founding members, or the decision to convert referred in Article **17 or the**

to convert referred in Article 17;

*decision to merge referred to in Article 17a;*

Or. en

### **Amendment 53**

#### **Proposal for a directive Article 18 – paragraph 4**

*Text proposed by the Commission*

4. Member States shall ensure that the application for registration of an ECBA may be submitted online.

*Amendment*

4. Member States shall ensure that the application for registration of an ECBA, ***including in cases of conversions and mergers,*** may be submitted online.

Or. en

### **Amendment 54**

#### **Proposal for a directive Article 19 – paragraph 4 – subparagraph 1 – point e**

*Text proposed by the Commission*

(e) where any person authorised to represent the ECBA referred to in Article 18(1), point (d) or any member of the executive body, has been convicted of a particularly serious criminal offence.

*Amendment*

(e) where any person authorised to represent the ECBA referred to in Article 18(1), point (d) or any member of the executive body, has been convicted of a particularly serious criminal offence ***as referred to in Article 7(3), second subparagraph, and such authorisation to represent the ECBA or membership in the executive body would be a threat to public order. In such cases, the ECBA shall be given reasonable time to rectify the situation.***

Or. en

## Amendment 55

### Proposal for a directive

#### Article 19 – paragraph 5 a (new)

*Text proposed by the Commission*

*Amendment*

**5a. Member States shall publish the registration procedure on the Single Digital Gateway established by Regulation (EU) 2018/1724.**

Or. en

## Amendment 56

### Proposal for a directive

#### Article 20 – paragraph 1

*Text proposed by the Commission*

*Amendment*

1. Each Member State shall establish **a** register for the purposes of registration of ECBAs pursuant to Article 19.

1. Each Member State shall establish **or use an existing national** register for the purposes of registration of ECBAs pursuant to Article 19.

Or. en

## Amendment 57

### Proposal for a directive

#### Article 20 – paragraph 5

*Text proposed by the Commission*

*Amendment*

5. Member States shall ensure that the documents and information referred to in paragraph 4 are **not** publicly available **for longer than 6 months after** the dissolution of an ECBA.

5. Member States shall ensure that the documents and information referred to in paragraph 4 are publicly available **until the financial year following** the dissolution of an ECBA.

Or. en

## Amendment 58

### Proposal for a directive

#### Article 22 – paragraph 4 – point d

*Text proposed by the Commission*

(d) where the persons authorised to represent the ECBA referred to in Article 18(1), point (d), any member of the executive body or the ECBA itself, if national law provides for this possibility, are the subject of proceedings for a particularly serious criminal offence in the previous home Member State.

*Amendment*

(d) where the persons authorised to represent the ECBA referred to in Article 18(1), point (d), any member of the executive body or the ECBA itself, if national law provides for this possibility, are the subject of proceedings for a particularly serious criminal offence ***as referred to in Article 7(3), second subparagraph***, in the previous home Member State, ***and such representation or participation in the executive body by this person would be a threat to public order. In such cases, a Member State shall proceed with the transfer of the registered office when the representative or member of the executive body has been replaced or where the proceedings have ended and they did not lead to a conviction.***

Or. en

## Amendment 59

### Proposal for a directive

#### Article 23 – paragraph 3 – subparagraph 1 a (new)

*Text proposed by the Commission*

*Amendment*

***Member States shall ensure that the application for a transfer of a registered office may be submitted online.***

Or. en

## Amendment 60

### Proposal for a directive

#### Article 25 – paragraph 2 – point c

*Text proposed by the Commission*

(c) a conviction for a serious criminal offence of the ECBA or of the members of its executive body;

*Amendment*

(c) a conviction for a serious criminal offence of the ECBA or of the members of its executive body ***committed in the name, on behalf or for the benefit of the ECBA; or***

Or. en

**Amendment 61**

**Proposal for a directive**

**Article 25 – paragraph 2 – point c a (new)**

*Text proposed by the Commission*

*Amendment*

***(ca) a conviction for a serious criminal offence of a member of the executive body for a particularly serious criminal offence committed after the creation of the ECBA where participation in the executive body by such person would be a threat to public order.***

Or. en

**Amendment 62**

**Proposal for a directive**

**Article 25 – paragraph 2 – subparagraph 1 a (new)**

*Text proposed by the Commission*

*Amendment*

***Where Member States provide for the involuntary dissolution of an ECBA in accordance with the first subparagraph, they shall provide a comprehensive written justification.***

Or. en



## Amendment 63

### Proposal for a directive Article 25 – paragraph 3

#### *Text proposed by the Commission*

3. Where the competent authority has concerns that one of the reasons referred to in paragraph 2 of this Article exists, it shall give a reasoned notice to the ECBA in writing of its concerns and give reasonable time to the ECBA to provide replies regarding those concerns.

#### *Amendment*

3. Where the competent authority has concerns that one of the reasons referred to in paragraph 2 of this Article exists, it shall give a reasoned notice to the ECBA in writing of its concerns and give reasonable time to the ECBA to provide replies regarding those concerns ***or to rectify the situation.***

Or. en

## Amendment 64

### Proposal for a directive Article 25 – paragraph 5

#### *Text proposed by the Commission*

5. Member States shall ensure that the decision referred to in paragraph 4 of this Article is reasoned, subject to effective judicial review, and does not take effect while judicial review is pending.

#### *Amendment*

5. Member States shall ensure that the decision referred to in paragraph 4 of this Article is reasoned, ***confirmed by a judicial decision and*** subject to effective judicial review ***in line with Article 11***, and does not take effect while judicial review is pending.

Or. en

## Amendment 65

### Proposal for a directive Article 26 – paragraph 2

#### *Text proposed by the Commission*

2. Member States shall ensure that any assets of the dissolved ECBA remaining after financial interests of possible

#### *Amendment*

2. Member States shall ensure that any assets of the dissolved ECBA remaining after financial interests of possible

creditors are discounted are transferred to a non-profit entity carrying out *a similar* activity *as* the dissolved ECBA or that the assets are transferred to a local authority, which is obliged to utilise them for an activity that is similar to the one pursued by the dissolved ECBA.

creditors are discounted are transferred to a non-profit entity carrying out *an* activity *similar to one of the activities of* the dissolved ECBA or that the assets are transferred to a local authority, which is obliged to utilise them for an activity that is similar to the one pursued by the dissolved ECBA.

Or. en

## Amendment 66

### Proposal for a directive

#### Article 27 – paragraph 1

##### *Text proposed by the Commission*

1. Each Member States shall designate *the* competent authority (‘competent authority’) responsible for the application of this Directive.

##### *Amendment*

1. Each Member States shall designate *an independent* competent authority (‘competent authority’) responsible for the application of this Directive.

Or. en

## Amendment 67

### Proposal for a directive

#### Article 27 – paragraph 3

##### *Text proposed by the Commission*

3. Member States shall notify the Commission of the names and tasks of other competent authorities established or designated for the purposes of the national rules applicable to the most similar non-profit association in their domestic legal order, as identified pursuant to Article 4(4), if applicable.

##### *Amendment*

3. Member States shall notify the Commission of the names and tasks of other competent authorities established or designated for the purposes of the national rules applicable to the most similar *or most commonly used form of* non-profit association in their domestic legal order, as identified pursuant to Article 4(4), if applicable.

Or. en

## Amendment 68

### Proposal for a directive Article 29 – title

*Text proposed by the Commission*

Reporting

*Amendment*

Reporting *and review*

Or. en

## Amendment 69

### Proposal for a directive Article 29 – paragraph -1 (new)

*Text proposed by the Commission*

*Amendment*

***-1. On a yearly basis Member States shall share with the Commission and the ECBA committee referred to in Article 30, to the extent possible through digital tools, a list of ECBAs registered in their territory, aggregated data concerning those ECBAs, as well as information with regard to:***

***(a) any measures adopted or updated by Member States on grounds of public policy and public security to prevent the risk of misuse of non-profit associations and to ensure transparency in relation to certain capital movements, as referred to in Article 4(3),***

***(b) national rules restricting an ECBA's right to determine its rules of operation, as referred to in Article 6(1),***

***(c) cases where additional requirements for registration were imposed on ECBAs, in accordance with Article 12(2),***

***(d) cases where restrictions on funding were imposed on an ECBA, in accordance with Article 13(2),***

***(e) cases where restrictions on the provision of services and trade in goods***

*were imposed on an ECBA, in accordance with Article 14(2),*

*(f) cases where additional documents or information were requested, in accordance with Article 18(3),*

*(g) cases where registration was refused, in accordance with Article 19(4),*

*(h) cases where the transfer of a registered office was refused in accordance with Article 22(4) or Article 23(5), and*

*(i) cases of involuntary dissolution as referred to in Article 27.*

*The Commission shall publish the list of all registered ECBAs on a publicly available website.*

Or. en

## Amendment 70

### Proposal for a directive Article 29 – paragraph 1

*Text proposed by the Commission*

*By [seven years after transposition deadline] at the latest, and every five years thereafter, the Commission shall report to the European Parliament and to the Council on the transposition and application of this Directive. **To that end, the Commission may request, to the extent possible through digital tools, Member States to share aggregated data concerning ECBAs registered in their territory.***

*Amendment*

*1. By [five years after transposition deadline] at the latest, and every five years thereafter, the Commission shall report to the European Parliament and to the Council on the transposition and application of this Directive. **The report shall include in particular:***

*(a) an evaluation of the effectiveness of the Directive with regard to the goals pursued,*

*(b) an assessment of possible benefits and the feasibility of harmonising at Union level the recognition and granting of a public benefit status, in particular to*

ECBAAs ,

*(c) an assessment of possible benefits and the feasibility of putting forward a proposal for a Regulation for a European Association similar to Regulation (EU, Euratom) No 1141/2014 of the European Parliament and of the Council on the statute and funding of European political parties and European political foundations,*

*(d) an assessment of possible benefits and the feasibility of bringing a proposal for a Regulation for a European statute for foundations.*

*Where appropriate, the report shall be accompanied by a proposal for amendment of this Directive.*

Or. en

## **Amendment 71**

### **Proposal for a directive Article 29 a (new)**

*Text proposed by the Commission*

*Amendment*

#### **Article 29a**

##### **ECBA Committee**

**1. The Commission shall be assisted by a Committee called the ECBA Committee. The ECBA Committee shall be composed of two representatives of each Member State. The committee shall be chaired by a representative of the Commission. The chair shall not take part in the committee vote. Member States and the Commission shall ensure a gender balance in the composition of national delegations. The Committee shall establish its own rules of procedure and adopt and organise its own operational arrangements.**

**2. The Committee shall monitor the**

*implementation of this Directive, in particular with regard to the provisions that make reference to this Article. It shall promote the exchange of information, experience and best practices as well as the coordination of policy approaches among national governments and the Commission.*

*3. The Committee shall prepare reports, formulate opinions or undertake other work within its fields of competence, at the request of either the Council or the Commission or on its own initiative.*

*4. The Committee shall work, as appropriate, in cooperation with other relevant bodies and committees, such as the EU Agency for Fundamental Rights.*

*5. In fulfilling its mandate, the Committee shall establish appropriate contacts with relevant stakeholders and non-profit associations in particular, and may invite them to their meetings.*

*6. Where reference is made to this paragraph, Article 5 of Regulation (EU) No 182/2011 shall apply.*

*7. The discussions of the Committee shall be governed by Regulation (EC) No 1049/2001 of the European Parliament and of the Council<sup>1a</sup>.*

*8. The Council and the European Parliament shall also be informed on a bi-annual basis regarding the activities of the Committee.*

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*<sup>1a</sup> Regulation (EC) No 1049/2001 of the European Parliament and of the Council of 30 May 2001 regarding public access to European Parliament, Council and Commission documents (OJ L 145, 31.5.2001, p. 43).*

Or. en

*Justification*

*Moved and amended from article 30*

**Amendment 72**

**Proposal for a directive  
Article 30**

*Text proposed by the Commission*

*Amendment*

**Article 30**

**deleted**

**Committee procedure**

- 1. The Commission shall be assisted by a Committee. That Committee shall be a committee within the meaning of Article 3(2) of the Regulation (EU) No 182/2011.**
- 2. Where reference is made to this paragraph, Article 5 of Regulation (EU) No 182/2011 shall apply.**

Or. en

*Justification*

*Moved to chapter 6*

**Amendment 73**

**Proposal for a directive  
Article 31 – paragraph 1**

*Text proposed by the Commission*

*Amendment*

1. Member States shall adopt and publish the laws, regulations, and administrative provisions necessary to comply with this Directive by [**2 years** from the entry into force of this Directive]. They shall immediately communicate the text of those measures to the Commission.

1. Member States shall adopt and publish the laws, regulations, and administrative provisions necessary to comply with this Directive by [**1 year** from the entry into force of this Directive]. They shall immediately communicate the text of those measures to the Commission.

Or. en

## **Amendment 74**

### **Proposal for a directive Article 31 – paragraph 1 a (new)**

*Text proposed by the Commission*

*Amendment*

***1a. Member States shall consult non-profit organisations established, registered or operating in their territory in a timely, transparent and meaningful manner about the transposition and implementation of the provisions of this Directive as well as the revision of relevant national provisions. Such consultation shall take place prior to the transposition of this Directive and at least twice a year thereafter.***

Or. en



## EXPLANATORY STATEMENT

The proposal for a Directive on European cross-border associations ('ECBA') follows the European Parliament's Resolution of 17 February 2022 with recommendations to the Commission on a statute for European cross-border associations and non-profit organisations<sup>1</sup>, and as well numerous calls over time from the Parliament and civil society to give associations a European legal form.

The Commission estimates the number of non-profit associations in the Member States at 3.8 million, roughly 10% of which are active across the EU. Through their activities in various sectors, they contribute 2.9% to the EU GDP.

Civil society organisations, including but not limited to associations, continue to face various administrative burdens due to a lack of approximation of practices, unjustified restrictions and other hurdles. They are subject to attempts to restrict their activities on political grounds, including the denial, refusal or challenging of their status as public benefit organisation.

The rapporteur welcomes the proposal to establish an ECBA by way of establishing a legal form in all Member States.

- In addition to making the same rules applicable to the ECBA that apply to the most similar non-profit association in national law, it should be taken into account which form is the most commonly used. This is to reflect that the Directive should be fit to the established and known practices of associations under existing national rules. The ECBA should therefore be treated equally with the legal form that associations already most commonly choose, providing them with all added benefits of the ECBA.
- The ECBA is a first step to put associations in the EU at the minimum on equal footing with commercial interests, therefore inspiration was taken from the Company Law Directive<sup>2</sup> in adding provisions for the merger of existing ECBA's.
- The new ECBA Committee will foster the mutual exchange and cooperation of Member States with regards to the implementation and application of the Directive and has an advisory role towards the Commission.
- European civil society is coming increasingly under pressure from governments and administrations, in particular regarding access to funds and donations, and to their status as public benefit organisations. At the same time, associations remain instrumental for democracy and policy making at all levels. They promote and work for the public good, they are part of the checks and balances necessary for the rule of law, and they are drivers for civic engagement of citizens. Member states should therefore not restrict activities or objectives with regard to participating in matters of public or political debate.

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<sup>1</sup> Texts adopted, [P9\\_TA\(2022\)0044](#)

<sup>2</sup> [Directive \(EU\) 2017/1132 relating to certain aspects of company law](#)

## **ANNEX: LIST OF ENTITIES OR PERSONS FROM WHOM THE RAPPORTEUR HAS RECEIVED INPUT**

Pursuant to Article 8 of Annex I to the Rules of Procedure, the rapporteur declares that he has received input from the following entities or persons in the preparation of the draft report.

### **Entity and/or person**

Allianz "Rechtssicherheit für politische Willensbildung" e.V.  
Alzheimer Europe  
Caritas Europa  
CEDAG - European Council of Associations of General Interest  
Centre Français des Fonds et Fondations  
Civil Society Europe  
Deutscher Caritasverband e.V.  
E.A.N. - European Ageing Network  
EASPD - European Association of Service Providers for Persons with Disabilities  
ECNL European Center for Not-For-Profit Law Stichting  
EPR - European Platform for Rehabilitation  
ESU - European Students' Union  
Eurodiaconia  
European Alternatives  
European Civic Forum  
European Fundraising Association, COFACE  
FEANTSA - European Federation of National Organisations Working with the Homeless  
France générosités  
Human Rights Cities Network  
Irish Council for Civil Liberties  
Le Mouvement associatif  
Maecenata Stiftung  
Ökotárs - Hungarian Environmental Partnership Foundation  
Philea  
Red Cross EU Office  
Samaritan International  
Social Services Europe

The list above is drawn up under the exclusive responsibility of the rapporteur.