European cross-border associations

2023/0315(COD) - 05/09/2023 - Legislative proposal

PURPOSE: to remove barriers to the cross-border activities and cross-border mobility of non-profit associations in the internal market operating in more than one Member State.

PROPOSED ACT: Directive of the European Parliament and of the Council.

ROLE OF THE EUROPEAN PARLIAMENT: the European Parliament decides in accordance with the ordinary legislative procedure and on an equal footing with the Council.

BACKGROUND: the proposal stems from the European Parliament resolution of 17 February 2022 which provided recommendations to the Commission on a statute for European cross-border associations and non-profit organisations.

Non-profit associations represent the predominant legal form among non-profit organisations in the European Union, with an estimated number of **3.8 million** present in EU Member States. Non-profit associations are also the largest in number of the four legal forms traditionally encompassed by the social economy and are active in sectors with a societal impact such as healthcare, social services, social inclusion, culture, sports, research and development, education and training, contributing 2.9% to EU GDP.

Non-profit associations have a positive impact on ensuring social fairness and prosperity for EU citizens and they play a significant role for growth within the internal market. They need a **predictable legal framework** that allows them to seamlessly conduct their activities, including when conducting them across borders in the internal market.

Currently, non-profit associations and their activities are regulated by specific legislation in 24 Member States in a different manner, creating legal uncertainty and giving rise to different administrative procedures and requirements. Rules on formation, membership and governance impose different requirements. Rules differ also regarding access to capital and difficulties exist when it comes to access financial loans, credits and guarantees within credit institutions.

Not only does this heterogeneity undermine the proper functioning of the internal market, but it also negatively impacts the freedom of association, together with the freedom of expression and information, and, ultimately, hampers non-profit associations to unleash their full potential to generate economic and societal value in the EU.

CONTENT: the proposal for a directive lays down measures coordinating the conditions for establishing and operating "**European cross-border associations**" (ECBAs), with the aim of facilitating the effective exercise by non-profit associations of their rights related to the freedom of establishment, free movement of capital, freedom to provide and receive services and free movement of goods in the internal market.

More specifically, the proposal aims to:

- establish in each Member State a **new legal form of non-profit associations** specifically designed for cross-border purposes (the ECBA), next to existing national legal forms.

- allow **automatic recognition** of this new legal form across the Union once an ECBA is registered in one Member State, thanks to the 'ECBA certificate';

- lay down common rules for ECBAs concerning their statutes, governance and membership;

- lay down the rules on **ECBAs' mobility rights**. This concerns specifically the possibility for an ECBA to transfer its registered office without such transfer resulting in the dissolution of the concerned ECBA and the procedure for the transfer of an ECBA's registered office;

- provide for harmonised rules on transfer of registered office, thus allowing non-profit associations to reap the full benefit of the freedom of establishment and the freedom to provide services, goods, and capital in the Union;

- ensure the ECBA fully enjoys the benefits of the Internal Market regardless of the Member State of registration by having **free and non-discriminatory access to public funding** in each Member State it operates.

According to the Commission, the proposal should reduce launch costs as well as compliance costs for non-profit associations operating cross-border:

- the excess launch costs for new cross- border operation will be reduced by an estimate of EUR 2 150 per launch. Within the assessed 15-year time frame, this excess cost reduction could potentially amount up to **EUR 378 million**;

- the reduction of excess cost linked to cross-border operations (recurrent costs, e.g. administrative and compliance costs) is estimated at **EUR 770 million / year**. Within the assessed 15-year time frame, cost savings could potentially amount up to of EUR 8.5 billion.