

	Austria	Portugal	Sweden	Denmark
1) Is in your country a local comparables search mandatory?	Not mandatory, but advisable , since authorities follow OECD guidelines.	Usually not	A local search is not required by Swedish authorities.	No
2) If the answer on question 1 is Yes: a) What is the (legal) basis for this requirement? Please specify in detail (tax law, etc.); b) What database(s) is (are) used?; c) Based on your experience, are the results of such a local search often very different from a pan-European search? Provide some ‘real cases’ comparisons if possible; d) Are your answers on the above questions valid for all business sectors? If not, please specify.				
3) If the answer on question 2 is No: a) Are pan-European searches based on e.g. Amadeus accepted? Please specify;	Amadeus is often used, and up to now not refused by the authorities.	They could be. It is expected that a good faith effort is undertaken to identify Portuguese comparable companies or transactions. If that fails, then Iberian comparables. If this fails then Southern European comparables. If this fails again then European and pan-European comparables.	Amadeus is generally regarded as a sufficient database to use. Although an Amadeus search is an approved method, Swedish tax authorities prioritize Swedish comparables. Therefore, a pan-European search may not constitute a sufficient measure. The following order is preferred: 1.Swedish comparables; 2.Nordic comparables; 3.Pan-European comparables	Yes, we believe so, although local Danish searches are preferable. It is stated in the Danish transfer pricing documentation guidelines, that foreign <u>databases</u> may be used. However, there has not yet been any official statements/court cases from the Danish tax authorities, that clarifies their acceptance of such pan-European <u>searches</u> .

	Austria	Portugal	Sweden	Denmark
b) Based on your experience, are the results of such a pan-European search often very different from a local search? Provide some 'real cases' comparisons if possible;	There are no specific databases so international databases have to be used. We experience that in Austria comparables are sometimes hard to find due to the small number of market participants in specific branches. If enough comparables exist in Austria the focus should be to Austria.	Usually not materially very different	The Swedish GTPS practice has noted differences in PLIs in terms of regional differences. Especially southern European comparables' PLIs tend to deviate from those of Nordic comparables. Also, a pure Swedish set of comparables generated by Amadeus, may differ substantially from PLIs generated by a local database search. Local database searches include smaller companies than Amadeus searches, which in turn may affect the PLIs.	Both yes and no. As most of the European markets are quite comparable, the margins usually do not vary a lot. However, when using Amadeus for pan-European searching purposes, it is often necessary to apply a turnover screen, which screens out small companies. If using the local databases, we believe that such turnover screen would not need to be as strict. This will leave a better possibility to include smaller (maybe even more independent) companies, and this may trigger a variation of the margins, as large vs. small companies focuses on different market segments.
c) Are your answers on the above questions valid for all business sectors? If not, please specify	In general yes.	It may apply to most sectors depending on the method selected. For instance, the cost plus method is often not used in Portugal given the lack of comparable information at the gross profit level. This method could be more widely used if dealing with US-based comparables.	The answers above are applicable for all business sectors.	Yes, Danish tax authorities have not yet determined that searches should be varied across business sectors.

	United Kingdom	Spain	Italy	Ireland
1) Is in your country a local comparables search mandatory?	No	It is not strictly mandatory , although it is highly recommended to perform a local comparables search. In this regard, the Spanish Tax Authorities usually take a Spanish approach on transfer pricing matters, looking for local comparables and comparing margins and prices so obtained with those applied by the taxpayer.	<p>Before answering this question, it is worth considering that the use of "economic studies" performed using comparable companies is quite new in Italy. Hence there are no specific and detailed regulations on how these searches should be performed. However, the Italian Law and Regulations indicate that comparability analysis should take care of market differences and focus on the local market. Therefore, we think that the answer is yes.</p> <p>For instance, Art.9(3) of the Italian Tax Code ("ITC") states that in relation to comparable prices "<i>normal value shall mean the average price or consideration paid for goods and services of the same or similar type, at the time and place in which the goods and services were purchased or performed or, if there be none, the time and place thereto</i>".</p> <p>In addition, the Italian Regulations (Circular n.32/1980 issued by the Ministry of Finance ("the Circular") states that "<i>the recourse to external comparisons compels the Administration to search for objective data, which, in the assumption that the relevant market is the foreign one, involves a number of considerable difficulties</i>" (Section 3). In the same Section, the Circular, in explaining the relevant market concept, states also that "<i>when the foreign market is the relevant one, but when the Italian market presents similar features (an hypothesis that, although possible, very seldom occurs) the reference to the Italian market is regarded as preferable</i>".</p> <p>Therefore, due to the existence of explicit reference to the use of data related to the local market in both the Italian tax law and the Circular, in our opinion the use of local comparables is required, unless it can be demonstrated that foreign markets are similar.</p>	No

	United Kingdom	Spain	Italy	Ireland
2) If the answer on question 1 is Yes: a) What is the (legal) basis for this requirement? Please specify in detail (tax law, etc.);		<p>Article 16 of the Spanish Corporate Income Tax (CIT) Law 43/1995 establishes the transfer pricing methods to be applied by both the Spanish Tax Authorities and the taxpayers when determining the market value of margins and prices. The Spanish CIT Law provides for the CUP method as the first one to be applied. If the CUP method could not be applied, cost-plus and resale minus are applicable. Finally, if none of those methods can be applied, profit split method would be applicable, under which the normal market price would be calculated by distributing the operation's overall profit among all the related parties.</p> <p>Notwithstanding, as mentioned above, there is no express reference in the law providing for a mandatory local comparables search, although again, this is highly recommended.</p>	As explained in the previous question 1), the Italian tax law and Regulations provide that, in determining transfer prices through a comparable analysis, reference should be made to the relevant market, which in most cases should be the market where the transaction takes place.	
b) What database(s) is (are) used?		Databases such as Amadeus, Sabi, etc. are generally used. For Spanish local searches, INFORMA is the most commonly used database.	There are no specific provisions on such matter. The database which frequently used are: Onesource, Amadeus, AIDA, Infoimprese; other sector specific local databases.	

	United Kingdom	Spain	Italy	Ireland
c) Based on your experience, are the results of such a local search often very different from a pan-European search? Provide some 'real cases' comparisons if possible;		As mentioned above, the Spanish Tax Authorities usually try to obtain local comparables when analyzing the margins and prices agreed between related parties. Hence, depending on the business sectors compared, their results may differ from those provided by the taxpayer on a pan-European basis. Only if there are no local comparables, the Spanish Tax Authorities would rely exclusively on said pan-European searches.	<p>The answer to this question depends on the actual search (sector, functions etc.). In some cases, the differences in the results between a local and a pan-European search is due to the fact that local searches tend to be characterized by a higher level of accuracy and precision (in terms of comparability) rather than on actual differences in the market. Business descriptions contained in databases are often very generic and high level, and local searches tend to focus more on collecting additional information about the potential comparable companies.</p> <p>In other cases, different results derive from actual market differences due to regulations, market structures, degree of competition, etc.</p> <p>In addition, it is worth noting that the use of local comparables is also useful to avoid potential problems related to accounting principles. Accounting principles and practices may differ from one country to another, and this issue may affect the comparability of financial data of companies located in different countries. Therefore, the use of local comparables mitigate/eliminate this issues since all the companies in the comparable set will use the same accounting standards than the tested party.</p>	

	United Kingdom	Spain	Italy	Ireland
d) Are your answers on the above questions valid for all business sectors? If not, please specify.		Yes, in principle they are valid for all business sectors.	<p>As indicated above, the answer depends on the sector.</p> <p>For instance, differences may be larger in sectors which are subject to country specific regulations, sector which do not have the same degree of competitions in all countries, etc.</p> <p>A good example of the importance of local searches is the "distribution of pharmaceutical products". The activity of a large number of distributors/wholesalers of pharma products in Italy are strictly regulated by law, in terms of functions and margins. These companies, which are called "grossisti", perform mainly logistic and inventory management functions, with a very limited sale activity and very limited operating costs. Due to their limited functions and risk, their Gross Margin (which is regulated) is very low. Obviously, the "grossisti" should not be used as comparables to test the margin of distributors of pharma products (which usually incur substantial promotion/marketing/sale costs), due to their different functions and their regulated margins.</p> <p>However, it is often not possible to distinguish the "grossisti" from the other pharma distributors/wholesales just looking at the business description contained in the pan-European databases, and they are often included in pan-European searches. This produces unjustifiably lower margins. A local search will have access to more information (for example information in the local language) and will be able to find better comparables.</p>	

	United Kingdom	Spain	Italy	Ireland
3) If the answer on question 2 is No: a) Are pan-European searches based on e.g. Amadeus accepted? Please specify;	<p>In theory yes. However, the Inland Revenue would expect to see UK search (using Fame) in the first instance and reasons typically need to be given on reliance of pan-European set. If UK-companies are included in pan European set, the Inland Revenue will ask to see a subset of UK companies to ensure that there are no significant differences from the rest of the set.</p> <p>There is no legislative requirement within the UK for local comparable searches.</p>			Ireland does not have a general transfer pricing provision. There is a strong possibility that one will be introduced in the near future.
b) Based on your experience, are the results of such a pan-European search often very different from a local search? Provide some 'real cases' comparisons if possible	Yes. Differences in local GAAP and reporting requirements affect the information available and consequently cause differences between UK and European searches.			
c) Are your answers on the above questions valid for all business sectors? If not, please specify	Due to the differences in accounting standards affecting all businesses question 3 b) will apply to all sectors, similarly the Inland Revenue's opinion stated in 3 a) is effective across all sectors as they strive for a consistent approach.			

	Finland	Germany	Belgium	France
1) Is in your country a local comparables search mandatory?	Not mandatory. Yet it is used increasingly as evidence both by taxpayers and tax authorities.	No. However, the taxpayer has to provide data if required for his transfer pricing method and if the related effort is reasonable.	No.	Not mandatory.
2) If the answer on question 1 is Yes: a) What is the (legal) basis for this requirement? Please specify in detail (tax law, etc.);		Abgabenordnung §90 (3) (General Tax Code)		<p>As a matter of principle, comparables searches are not mandatory in France. A recent case law has accepted that the French Tax Administration (FTA) does not necessarily have to provide a benchmark on the normal return earned by independent comparable companies in order to prove that a transaction concluded between a related party does not meet the arm's length requirement, the Tax Authorities (CE na 4 décembre 2002, n°237 167 SA Lindt et Sprungli). More generally, please note that the French tax regulations do not require any transfer pricing documentation to be submitted with the annual corporate tax return, but rather that it be available in case of a tax audit.</p> <p>However, based on our experience, it appears that comparable searches are advisable:</p> <ul style="list-style-type: none"> - First, it appears that the Tax Courts are very sensitive to comparable searches in transfer pricing disputes. For example, in the Laboratories Fisons case (TA Lyon 25 April 1990), the company based its argument on a comparable search to overcome the presumption of an indirect transfer of profit resulting from Article 57 of the French Tax Code. More recently, a Court of Appeal has accepted a transfer pricing adjustment based on five products of similar commercial reputation, distributed by three companies with comparable sales turnovers operating in the same pharmaceutical sector were comparable to a pharmaceutical product

	Finland	Germany	Belgium	France
				<p>(Administrative Appeals Court (CAA) Paris July 12, 1994 Pharmatique Industrie).</p> <ul style="list-style-type: none"> - In a statement of practice regarding transfer-pricing documentation (instruction 13 L-7-98, BOI July 23 1998), the FTA has indicated that the application of a transfer pricing methodology to a company should be justified with an analysis of comparable companies. <p>Finally, in the course of a tax audit, the FTA expects the taxpayer to provide a transfer pricing documentation justified with comparable searches. When a company fails to provide such comparable searches, the FTA will usually perform a comparable search and reassess the company on this basis.</p>
b) What database(s) is (are) used?;		Dafne, Hoppenstedt, OneSource		<p>Since the French tax administration prefers the use of French comparables, the Diane database, focusing on the French market, is recommended. Moreover, the information contained in Diane is more developed and precise than in Pan-European or Worldwide database. Therefore, Diane is the database most frequently used by the French Tax Authorities.</p> <p>However, when French comparables identified are insufficient, or when a comparable search on French market is not appropriated, the French tax administration allows pan-European searches. In this case, the FTA will prefer the use of the Amadeus Databases.</p> <p>Having said that, please note that when performing a comparable search, the FTA will be more sensitive to the comparability criteria (such as independence, functions performs, risk borne, size of the company) and the level of information available than the database used. Thus, our experience shows that, in case of tax audit, the</p>

	Finland	Germany	Belgium	France
				FTA will accept comparable searches on other databases than Diane or Amadeus (for example on Worldscope) when the use of the database is documented and the companies selected comparable.
c) Based on your experience, are the results of such a local search often very different from a pan-European search? Provide some 'real cases' comparisons if possible;		Yes. The German databases are better, since they have more and better data. The German GAAP can be reflected by these databases.		Our experience suggests that there is no major difference in the result found when we used a local search and a pan-European search. If the results are not identical, they tend to be consistent. Our mainly experience is based on comparable search is the distribution in the pharmaceutical industry and in the services industry. Nevertheless, please note some differences may exist in industry where there are important differences between the local markets. For example, this is particularly the case in the cosmetic sector. However, in this case, the differences in the results are not due to the choice of databases used but come from difference in the market itself. Therefore, we would recommend when a pan-European search is contemplated to verify whether the market selected are comparable. If the different markets among Europe are not comparable we would not recommend a pan-European search but a local search.
d) Are your answers on the above questions valid for all business sectors? If not, please specify.		Yes		In respect of comparable searches, the approach of FTA is the same for all business sectors.
3) If the answer on question 2 is No: a) Are pan-European searches based on e.g. Amadeus accepted? Please specify;	Pan- European searches are accepted, but searches with Finish or Nordic comparables are preferred, where there are enough comparable companies locally.	No, they have very limited use, but are better than nothing.	In principle, yes. In this respect, it should be noted that the Belgian tax authorities responsible for granting transfer pricing rulings use both a local Belgian database ('Belfirst') and a European database ('Amadeus'). If it occurs that no Belgian comparables are withheld in the final pan-European search, it cannot be excluded that the Belgian tax authorities raise additional	

	Finland	Germany	Belgium	France
			questions and require a local search.	
b) Based on your experience, are the results of such a pan-European search often very different from a local search? Provide some 'real cases' comparisons if possible;	The results are not very different.		In most cases, the search results of a local and pan-European search do not differ substantially. However, one should always take into account that the various accounting regulations across the European countries may cause some differences if no adjustments are made.	
c) Are your answers on the above questions valid for all business sectors? If not, please specify.	Yes.		Yes but if the Belgian tax authorities can prove that the general characteristics of particular business sector deviate per country or region, they may require a local search.	

	Netherlands	Luxembourg	Greece	
1) Is in your country a local comparables search mandatory?	<p>No. The Netherlands codified the arm's length principle, effective January 1, 2002, but a comparable search is not mandatory.</p> <p>Although not mandatory, the Dutch tax authorities expect and ask for comparables searches, absent CUPs or absent sufficient other third party information to substantiate the transfer pricing. Also the Dutch tax authorities frequently perform their own comparable searches to check the transfer pricing of taxpayers. The searches are performed only by a specialized (back office) unit for all of the tax authorities, the so-called CGVP (Central Co-ordination Group Transfer Pricing).</p>	<p>No, there is not a local comparables search database available in Luxembourg.</p>	No	
2) If the answer on question 1 is Yes: a) What is the (legal) basis for this requirement? Please specify in detail (tax law, etc.);				
b) What database(s) is (are) used?;				
c) Based on your experience, are the results of such a local search often very different from a pan-European search? Provide some 'real cases' comparisons if possible;				
d) Are your answers on the above questions valid for all business sectors? If not, please specify.				
3) If the answer on question 2 is No: a) Are pan-European searches based on e.g. Amadeus accepted? Please specify;	<p>The Dutch tax authorities prefer a local Dutch search. Also frequently a Benelux search is used (absent sufficient Dutch comparable companies). The Dutch tax authorities are in principle not against a pan-</p>	<p>Luxembourg tax law does not contain precise regulations in respect of transfer pricing and allocation of profits and expenses within a group of companies.</p>	<p>The Greek income tax law (article 39, Law 2238/1994 Income Taxation Code) introduces the arm's length principle and the CUP method for establishing that the arm's length principle has been complied with in transactions between associated enterprises. In other words it provides that the terms of the transactions between</p>	

	Netherlands	Luxembourg	Greece	
	<p>European search, provided the Dutch tested party operates in several European countries (pan-European meaning mostly EU + Norway + Switzerland).</p> <p>When performing or reviewing even such searches the Dutch tax authorities apply specific local Dutch screenings. These screenings are not laid down yet in writing in a protocol, but have become the daily practice in discussions between the tax authorities and the local Dutch tax advisory firms. These screenings are for example: being very strict on any dependent (even as low as 5%) comparables, to exclude consolidated companies and with other activities than the test party and with balance sheet or P/L ratio's being different from the tested party. In other words several specific Dutch local screenings are required for the final set to be defensible towards the Dutch tax authorities.</p>	<p>Reference is also made to the OECD principles which are also taken as a reference by the Luxembourg tax authorities and to Luxembourg general principles contained in Luxembourg tax law.</p> <p>- <i>Luxembourg domestic tax law</i></p> <p>There are two provisions that deal with inter-company transactions. The provisions are articles 56 and 164 of the Luxembourg income tax code.</p> <p><i>Article 56:</i> this article authorize the determination of the profits of a Luxembourg company in a lump sum manner if a transfer of profits from a Luxembourg company to a non-resident person (either individual or an entity) has been made possible because the Luxembourg company has, directly or indirectly, special economic ties with that non-resident person.</p> <p><i>Article 97:</i> this article considers hidden profit distributions, which are defined in article 164 of the Luxembourg income tax code as "taxable income derived from capital investments". It follows that hidden profit distributions will receive the same income tax treatment as ordinary dividends.</p> <p><i>Article 164:</i> this article provides that hidden profit distributions should be added back to taxable profits of the distributor. Moreover, this article gives also a definition of hidden profit distributions.</p> <p>- <i>OECD principles</i></p>	<p>related parties should be comparable to the terms applying to comparable transactions undertaken between independent enterprises. No explicit provisions as to the applicable method for establishing comparables are provided by law.</p> <p>In practice, the Greek tax authorities tend to apply local comparables or rely on profit margins of other companies in the same industry operating in Greece. In case local comparables are not available, other information may be considered. However, there is no official guidance or other provision specifying such information and therefore its type depends on the particular circumstances of each case. Finally, there is no statistical information publicly available on the basis used by the tax authorities in the past for establishing compliance with the arm's length principle for specific industries.</p>	

	Netherlands	Luxembourg	Greece							
		<p>The Luxembourg tax authorities accept OECD principles in reviewing transfer prices. The main methods commonly used are the following:</p> <ul style="list-style-type: none"> - Comparable Uncontrolled Price method (CUP); - Resale Price method <p>The Luxembourg direct tax authorities have no order of priority, when choosing one of these methods for reviewing transfer prices.</p> <p>A pan-European comparable database search (i.e. as Amadeus) may be accepted by the Luxembourg tax authorities in case with inter-company transactions. It should be noted that the Luxembourg authorities have not yet gained much experience in reviewing transfer prices.</p>								
b) Based on your experience, are the results of such a pan-European search often very different from a local search? Provide some 'real cases' comparisons if possible;	<p>Yes, the main example being an unilateral Dutch APA request for the largest foreign investment directly into the Netherlands (being a new factory/sales unit). Based on a local Benelux search the operating margin interquartile range was: 2.1%, median 2.3% and 2.7%; North/West Europe region: 2.2%, median 2.9% and 4.7% and a total Pan-European search:</p> <table border="1"> <tbody> <tr> <td>75th - percentile</td> <td>7,1%</td> </tr> <tr> <td>Median</td> <td>4,7%</td> </tr> <tr> <td>25th - percentile</td> <td>2,9%</td> </tr> </tbody> </table> <p>The analysis we did show that in this particular industry companies in Southern Europe (mainly Italy, Spain and Greece) were much more profitable than the northern European</p>	75th - percentile	7,1%	Median	4,7%	25th - percentile	2,9%	<p>Luxembourg does not dispose any local database regarding the comparable research. In this context, it is impossible to compare local comparable research with the pan-European search.</p>		
75th - percentile	7,1%									
Median	4,7%									
25th - percentile	2,9%									

	Netherlands	Luxembourg	Greece	
	counterparts. As is evident from above examples the differences are huge, for example the above local median 2.3% compares to a pan-European median of 4.7% or some 100% higher.			
c) Are your answers on the above questions valid for all business sectors? If not, please specify.	Above example under b) only applies for one specific industry. We expect that for other industries Pan-European search outcomes may again be higher, but also lower or equal compared to a local Dutch/Benelux search outcome. We do not know because we do not have sufficient evidence for this.	<p>A different transfer price method is applied for Luxembourg finance companies. In fact, in the framework of group financing activities, an arm's length minimum interest spread should be left at the level of the Luxembourg finance company that should be in line with the Luxembourg transfer pricing principles.</p> <p>The margin would be arm's length and would depend on the volume of the financing, the currency risk and the insolvency risk of the Luxembourg finance company.</p> <p>Advance agreements on arm's length transfer pricing from the Luxembourg tax authorities may be possible provided that the taxpayer prove that the method applied meets the arm's length test.</p>		