



Evaluation of Administrative Cooperation in Direct Taxation

FINAL REPORT

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2019

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Abstract

This Evaluation Study was prepared for the European Commission – Directorate General for Taxation and Customs Union and it is intended to support the forthcoming Commission Evaluation of the Council Directive 2011/16 on administrative cooperation in the field of taxation. The Directive was transposed properly by the Member States, and it triggered the exchange of a substantial amount of information, which increased over the years. It was relevant at the time it was adopted, and still is today, as it tackles a number of priority problems for the EU. Despite the recent implementation of its provisions, the Directive has already started contributing to the capacity of Member States to fight tax frauds, evasion and avoidance, thanks to the new or improved tools for the exchange of information which it put at Member States' disposal. On the contrary, its potential effects on the reduction of harmful tax competition are still to materialise. In the medium-term, the Directive is estimated to generate positive net benefits for the society, taking into account the compliance costs, mostly linked to the implementation of the Automatic Exchange of Information, that have been incurred by the Member States and economic operators so far. The EU action in this area was not affected by issues of coherence, and resulted in an added value compared to the available alternatives. No significant challenges emerged which would require a legislative revision in the short-term.

Résumé

Cette étude d'évaluation a été réalisée pour la Commission Européenne – Direction générale Fiscalité et Union douanière – et vise à appuyer la prochaine évaluation par la Commission de la directive 2011/16 du Conseil sur la coopération administrative en matière de fiscalité. Cette directive a été correctement transposée par les États membres, ce qui a entraîné l'échange d'un grand nombre d'informations augmentant au fil des années. Cela était vrai au moment de l'adoption de la directive et l'est toujours aujourd'hui, abordant un nombre important de problèmes prioritaires pour l'UE. Malgré l'application encore récente de ses dispositions, la directive a déjà commencé à contribuer à renforcer la capacité des États membres à lutter contre la fraude et l'évasion fiscales grâce à la création d'outils améliorés pour l'échange d'information qu'elle met à leur disposition. Cependant, les effets potentiels sur la réduction de la concurrence fiscale dommageable restent à concrétiser. A moyen terme, la directive est censée générer des bénéfices nets positifs pour la société, en tenant compte des coûts de mise en conformité principalement liés à l'application de l'Echange Automatique d'Information qui ont jusqu'à présent été engagés par les États membres et les acteurs économiques. L'action de l'UE dans ce secteur n'a pas été affectée par des questions de cohérence et a apporté une valeur ajoutée par rapport aux alternatives disponibles. Aucun problème important nécessitant une révision législative à court terme n'a émergé.

Kurzdarstellung

Diese Evaluierungsstudie wurde für die Europäische Kommission – Generaldirektion Steuern und Zollunion – ausgearbeitet und dient der Unterstützung der bevorstehenden Kommissionsevaluierung der Richtlinie 2011/16 des Rates über die Zusammenarbeit der Verwaltungsbehörden im Bereich der Besteuerung. Die Richtlinie wurde von den Mitgliedsstaaten ordnungsgemäß umgesetzt und hat den Austausch einer erheblichen Menge an Informationen, welcher über die Jahre zugenommen hat, ausgelöst. Sie war zum Zeitpunkt ihrer Annahme relevant und ist dies auch heute noch, da sie eine Reihe vorrangiger Problembereiche der EU in Angriff nimmt. Trotz der erst kürzlich durchgeführten Implementierung ihrer Bestimmungen hat die Richtlinie, dank der neuen oder verbesserten Instrumente, die sie den Mitgliedsstaaten zum Austausch von Informationen zur Verfügung stellt, bereits angefangen die Kapazität der Mitgliedsstaaten zur Bekämpfung von Steuerbetrug, Steuerhinterziehung und Steuervermeidung zu erhöhen. Hingegen haben sich die möglichen Auswirkungen auf die Reduzierung von schädlichem Steuerwettbewerb noch nicht materialisiert. Mittelfristig wird erwartet, dass die Richtlinie positive Nettonutzen für die Gesellschaft generiert, schon unter Berücksichtigung der Befolgungskosten, die vorwiegend mit der Implementierung des automatischen Informationsaustausches verknüpft sind und bisher für Mitgliedsstaaten und Wirtschaftsakteure angefallen sind. Die EU-Maßnahme in diesem Bereich wurde nicht durch Kohärenzprobleme beeinflusst und führte im Vergleich zu verfügbaren Alternativen zu Mehrwert. Es sind keine wesentlichen Schwierigkeiten aufgetreten, die eine legislative Revision in der nahen Zukunft erfordern.

Table of Contents

Abbreviations and Acronyms	4
MAIN TEXT	7
1 INTRODUCTION	8
1.1 Nature and content of the Assignment.....	8
1.2 Evaluation approach.....	8
1.3 Documentary sources and consultation activities	9
1.4 Methodological considerations, data limitations, and mitigation strategies.....	11
1.5 Structure of the Report	13
2. BACKGROUND, LEGAL FRAMEWORK AND INTERVENTION LOGIC.....	14
2.1 Introduction.....	14
2.2 Basic Concepts	14
2.3 Global Trends in ACDT	15
2.4 The EU Framework on ACDT	17
2.5 Key Features of the Directive	21
2.5.1 AEOI Provisions	22
2.5.2 Provisions on EOI other than AEOI.....	25
2.5.3 OFACDT	26
2.5.4 General Provisions on institutional arrangements and reporting.....	26
2.5.5 Supporting groups at the European level	27
2.6 The intervention logic of the Directive.....	27
3 TRANSPOSITION AND PREPARATION FOR IMPLEMENTATION.....	1
3.1 Introduction.....	1
3.2 Transposition and Preparation for Implementation of DAC1 Provisions.....	1
3.2.1 DAC1 Provisions (excluding AEOI)	1
3.2.2 AEOI Provisions	2
3.3 Transposition and Implementation of DAC2 Provisions.....	3
3.4 Transposition and Preparation for Implementation of DAC3 Provisions.....	5
3.5 Transposition and Preparation for Implementation of DAC4 Provisions.....	5
3.6 Transposition and Preparation for Implementation of DAC5 Provisions.....	6
3.7 General Provisions.....	7
3.8 Summing Up	8
4 UPTAKE OF THE DIRECTIVE'S PROVISIONS.....	9
4.1 Introduction.....	9
4.2 Trends in Automatic Exchange of Information.....	9
4.2.1 AEOI on Income/Asset (DAC1)	9
4.2.2 AEOI on Financial Assets (DAC2)	13
4.2.3 AEOI on ATR/APA (DAC3)	15
4.3 Trends in Exchange of Information on Request and Spontaneous Exchange of Information	17
4.4 Trends in Other Forms of Administrative Cooperation	20
4.5 Summing Up	23
5 RELEVANCE.....	25
5.1 Introduction.....	25
5.2 Magnitude of the issues at stake.....	25
5.2.1 Cross-border tax evasion	25
5.2.2 Corporate tax avoidance.....	29
5.3 Alignment of the Directive's objectives with needs and priorities of the EU	30
5.3.1 Original relevance of the Directive	30
5.3.2 Ongoing relevance of the Directive	31
5.4 Fitness of the Directive to achieve its objectives	34
5.5 Summing up.....	35

6 EFFECTIVENESS OF ACDT	37
6.1 Introduction.....	37
6.2 Usability of the Information Exchanged.....	37
6.2.1 Automatic Exchange of Information	38
6.2.2 Exchange of information other than AEOI	41
6.3 Use of the Information Exchanged.....	43
6.3.1 Introduction.....	43
6.3.2 AEOI Processing and Use.....	43
6.3.3 Use of Spontaneous Exchange of Information.....	46
6.3.4 Complementarity among ACDT provisions.....	47
6.4 Benefits of the Directive.....	48
6.4.1 Introduction.....	48
6.4.2 Incremental tax assessed	49
6.4.3 Deterrent effect.....	52
6.4.4 Other benefits	55
6.5 Summary of findings by Evaluation Question and Judgement Criterion	56
7 EFFICIENCY	60
7.1 Introduction.....	60
7.2 Costs and cost savings for public authorities	61
7.2.1 Costs due to AEOI	61
7.2.2 Costs and cost savings due to non-automatic EOI and OFACDT	65
7.2.3 Burdens due to reporting obligations.....	68
7.3 Costs and burdens for financial institutions.....	69
7.4 Costs and cost savings for taxpayers	72
7.5 EU budget support.....	74
7.6 Considerations on cost-effectiveness.....	75
7.7 Summing up.....	78
8 COHERENCE	79
8.1 Introduction.....	79
8.2 Internal coherence	79
8.3 External coherence.....	81
8.3.1 Administrative Cooperation in VAT matters	81
8.3.2 Recovery Directive.....	83
8.3.3 Anti-Money Laundering	84
8.3.4 OECD initiatives	85
8.4 Summing up.....	87
9 EU ADDED VALUE.....	88
9.1 Introduction.....	88
9.2 The added efficiency of ACDT mechanisms and tools.....	88
9.3 The added benefits of the Directive	90
9.4 Summing up.....	92
10 POSSIBLE WAYS FORWARD	93
10.1 Introduction.....	93
10.2 Revisions	93
10.3 Summing up.....	97
11 CONCLUSIONS	98
Annexes: Abbreviations and Acronyms.....	104
ANNEX A - PUBLIC CONSULTATION - SYNOPSIS REPORT	105
A.1 Overview	105
A.2 General section	105
A.3 Overall assessment of the Directive.....	106
A.4 Individual taxpayers	110
A.5 Legal entities – legal arrangements	110
A.6 Providers of Tax Advice and Accountancy Services	111

A.7 Financial institutions	112
A.8 Additional contributions	112
ANNEX B – EVALUATION MATRIX	116
ANNEX C – LIST OF PERSONS AND INSTITUTIONS CONTACTED	122
C.1 Member States Competent Authorities	122
C.2 Financial Sector	123
C.3 Tax Advisors.....	124
C.4 Others	124
ANNEX D - REFERENCES	126
D.1 EU Legislation, Policy Documents, Meeting Minutes	126
D.2 Other References	131
ANNEX E –TRANSPOSITION OF DAC PROVISIONS.....	134
E.1 Introduction.....	134
E.2 National Measures Transposing DAC1 Provisions	134
E.3 National Measures Transposing DAC2 Provisions	137
E.4 National Measures Transposing DAC3 Provisions	141
E.5 National Measures Transposing DAC4 Provisions	144
E.6 National Measures Transposing DAC5 Provisions	147
ANNEX F - AEOI DAC1 EXCHANGES BY CATEGORY OF INCOMES/ASSETS	149
F.1 Introduction	149
F.2 Income from Employment.....	149
F.3 Director’s Fees	150
F.4 Pensions	150
F.5 Life Insurance Products.....	151
F.6 Immovable Property	151
ANNEX G – INFORMATION ON AEOI IMPLEMENTATION COSTS	153
G.1 AEOI Costs – 2015 - DAC1	153
G.2 AEOI Costs – 2016 – DAC1.....	154
G.3 AEOI Costs – 2017 – DAC1.....	155
G.4 AEOI Costs - DAC1- Cumulated	156
G.5 AEOI Costs – 2017 – DAC2.....	157
G.6 AEOI Costs – 2017 – DAC3.....	158

Abbreviations and Acronyms

ACDT	Administrative Cooperation in Direct Taxation
AEFI	Expert Group on Automatic Exchange of Financial Account Information
AEOI	Automatic Exchange of Information
AML	Anti-Money Laundering
APA	Advance Pricing Agreement
ATR	Advance Tax Ruling
BEPS	Base erosion and profit shifting
BRT	Better Regulation Toolbox
CACT	Committee on Administrative Cooperation for Taxation
CbCR	Country-by-Country reporting
CJEU	Court of Justice of the European Union
CCN	Common Communication Network
CDF	Crown Dependencies Facility
CLO	Central Liaison Office
COE	Council of Europe
CRS	Common Reporting Standard
DAC	Directive on Administrative Cooperation
DF	Director' Fees
DTT	Double Taxation Treaties
EC	European Commission
eFDT	Electronic Forms in Direct Taxation
EI	Income from Employment
EOI	Exchange of Information
EOIR	Exchange of Information on Request
EQ	Evaluation Questions
EU	European Union
EUSD	European Union Savings Directive
FATCA	Foreign Account Tax Compliance Act
FATF	Financial Action Task Force
GDP	Gross Domestic Product
GNI	Gross National Income
IO	Information Obligation
IP	Immovable Property
IRS	Internal Revenue Service
IT	Information Technology
LIP	Life Insurance Products
MAD	Mutual Assistance Directive
MiFID	Markets in Financial Instruments Directive
MNE	Multinational enterprises
MS	Member States
NGO	Non-Governmental Organization
OECD	Organization for Economic Co-operation and Development
OFACDT	Other Forms of ACDT
OIN	Organization Identification Number
OVD	Offshore Voluntary Disclosure
PAOE	Presence in Administrative Offices and participation in administrative Enquires
PC	Public Consultation
PEN	Pensions

QFD	Questionnaire on the Functioning of the Directive
SC	Simultaneous Controls
SCM	Standard Cost Model
SEOI	Spontaneous Exchange of Information
SG AEOI	Sub-Group on the Automatic Exchange of Information
SSG eFDT	Small Sub-Group 'Electronics form for Direct Taxes'
STDR	Service de Traitement des Déclarations Rectificatives
TFEU	Treaty on the Functioning of the European Union
TIEA	Tax Information Exchange Agreement
TIN	Tax Identification Number
US	United States
VAT	Value-Added Tax
WDF	Worldwide Disclosure Facility
WG ACDT	Working Group on Administrative Cooperation in the field of Direct Taxation
YA	Yearly Assessment

Symbols and conventions

~ means approximate value

.. means not available

– means not applicable

0 means zero or a quantity less than half than the unit shown

In all exhibits, totals may not add due to rounding

Billion must be understood as 10^9

Member States are identified with the two-letter codes taken from the ISO 3166-1 standard (i.e. ISO 3166-1 alpha-2), with the only exception of the United Kingdom, for which the UK acronym is used instead of GB.

Glossary

Advance Pricing Agreement. Ahead-of-time agreement between a tax authority and a taxpayer, either a natural or legal person, regarding the methodology to be used to determine the transfer pricing for a set of transactions.

Advance Tax Ruling. Ahead-of-time binding interpretation of an applicable fiscal provisions issued by a public authority on request from an individual or corporate taxpayer,

Automatic Exchange of Information. The transmission of available information between tax authorities via automated means, in bulk, for all the taxable persons, transactions or tax rulings fulfilling certain criteria, at predetermined times, and in predetermined formats.

Country-by-Country Reporting. The obligation for certain multinational enterprises to provide tax authorities with a detailed geographical account of key financial data and information on the performance of the company and the taxes paid.

Deterrent effect. Change in taxpayers' behaviour originating from the risk of detection posed by the increased information available to tax authorities, resulting in additional spontaneous tax compliance.

Exchange of Information on Request. Transmission by the requested tax authorities of information expressly solicited by a requesting tax authority, which is either already available in existing databases, or requires enquiries for its collection.

Matching. Process of combining the information received from foreign tax authorities with the national taxpayers' databases. The matching process can be made automatically, i.e. using a computing algorithm, or manually.

Message. Batch of information automatically exchanged between tax authorities concerning multiple taxpayers' positions.

Message year. Year in which a message is exchanged between tax authorities.

Pre-filling of tax returns. Automatic process through which a tax authority may compile in advance (part of) the taxpayer's tax declaration, based on the information available in the national databases or received from foreign tax authorities.

Presence in Administrative Offices / Participation in administrative enquires. Presence of the requesting tax authority's officials in the administrative offices / during administrative enquires in the territory of the requested tax authority.

Simultaneous Control. Fiscal controls carried out simultaneously by two or more tax authorities in their own territory, on one or more taxpayers of common interest.

Spontaneous Exchange of Information. Unsystematic provision of information that the supplying tax authority deems to be of interest to the receiving tax authority.

(Incremental) Tax assessed. (Incremental) Tax liability resulting from a (re-)assessment of the assets value or incomes earned. An incremental tax liability may originate from various factors, such as a re-assessment of the applicable tax rate, and whether and to which extent to which the tax base was already taxed in another country.

Tax base. Amount of incomes and assets that can be subject to taxation, upon which the tax due is determined.

Tax collected. Amount of tax assessed which is actually paid by a taxpayer into the public budget.

Tax year. The fiscal year to which the information exchanged between tax authorities refers.

Taxpayer position. Relation resulting in a taxable income (e.g. employment contract, home ownership). One taxpayer may be associated with more than one taxpayer position in the same year (e.g. if he/she is employed by more than one entity). The same taxpayer is often associated with the same taxpayer position(s) year after year.

MAIN TEXT

1 INTRODUCTION

1.1 Nature and content of the Assignment

This Final Report (the 'Report' or the 'Study') was prepared within the **Evaluation of Administrative Cooperation in Direct Taxation** (the 'Assignment'). The Report is submitted to the European Commission Directorate General for Taxation and Customs Union (DG TAXUD or the 'Client') by a grouping of consulting firms led by Economisti Associati and comprising ECOPA and Oxford Research (hereinafter, collectively referred to as 'the Consultant').

The Study is intended to support the Commission Report in the automatic exchange of information in the field of direct taxation¹ and the forthcoming Commission Evaluation of the **Council Directive 2011/16 on administrative cooperation in the field of taxation**² (the 'Directive on Administrative Cooperation' – 'DAC', or just the 'Directive'), including its amendments up to 1 January 2018.³ In particular, the Study purports **to provide a comprehensive assessment of the Directive**. More specifically, the Report pursues the twofold objective of: (i) assessing the implementation and results achieved by the Directive, and (ii) developing recommendations for the amendment of existing provisions, should they prove to be inadequate.

1.2 Evaluation approach

The Assignment consists of **two components**, an implementation assessment and an evaluation 'proper'. The former includes an assessment of the transposition of the Directive provisions and of the extent to which the mechanisms and tools of the Directive have been employed by the Member States. The latter involves an assessment of the Directive along the **five evaluation criteria** commonly used for the assessment of EU initiatives, namely: (i) relevance, (ii) effectiveness, (iii) efficiency, (iv) coherence, and (v) EU added value.

The aspects to be investigated by the Assignment are articulated in the form of seven **Evaluation Questions** (EQ) which are listed in Exhibit 1.1 below, while the complete Evaluation Matrix is included in Annex B. The first EQ relates to the Implementation Assessment while the remaining six are linked to the evaluation criteria.

Exhibit 1.1 Evaluation Questions

Implementation Assessment

- EQ#1 To what extent have the provisions of the Directive been implemented?

Evaluation 'proper'

Relevance

- EQ#2 To what extent has the Directive adequately addressed the identified needs?

Effectiveness

- EQ#3 To what extent has the Directive achieved the intended outcomes (i.e. specific objectives)?
- EQ#4 To what extent has the Directive achieved the intended impacts (i.e. general objectives)?

¹ Report from the Commission to the European Parliament and the Council on overview and assessment of the statistics and information on the automatic exchanges in the field of direct taxation, COM (2018)844, 17.12.2018. Hereinafter, 'Commission AEOI Report'.

² Council Directive 2011/16/EU of 15 February 2011 on administrative cooperation in the field of taxation and repealing Directive 77/799/EEC.

³ (i) Council Directive 2014/107/EU of 9 December 2014 amending Directive 2011/16/EU as regards mandatory automatic exchange of information in the field of taxation; (ii) Council Directive (EU) 2015/2376 of 8 December 2015 amending Directive 2011/16/EU as regards mandatory automatic exchange of information in the field of taxation; (iii) means the Council Directive (EU) 2016/881 of 25 May 2016 amending Directive 2011/16/EU as regards mandatory automatic exchange of information in the field of taxation; and (iv) Council Directive (EU) 2016/2258 of 6 December 2016 amending Directive 2011/16/EU as regards access to anti-money-laundering information by tax authorities.

Efficiency

- EQ#5 What have been the costs (e.g. compliance costs, administrative burdens) and cost savings (e.g. because of easier / faster cooperation and exchanges) generated by the implementation of and compliance with the Directive on stakeholders (Member States administrations, economic operators, citizens) and how do they compare?

Coherence

- EQ#6 To what extent are the provisions of the Directive consistent both internally and with other related interventions, EU policies and strategies in the area of administrative cooperation and fight against tax fraud?

EU Added Value

- EQ#7 To what extent has the Directive brought additional benefits compared with what could have been achieved by Member States acting independently on national or international levels?

1.3 Documentary sources and consultation activities

The Study is based on the information extracted from documentary sources or obtained by means of various streams consultations with relevant stakeholders. These sources, together with the methodology deployed for the consultation activities, are described below.

Documentary sources. Documentary sources consist primarily of **various datasets on administrative cooperation activities**, comprising information provided by the Member States to DG TAXUD as part of the reporting obligations spelled out in the Directive. The datasets can be broadly classified into **statistics**, which include information on the number and nature of the exchanges that have occurred via the DAC mechanisms, and **questionnaires**, through which Member States provide qualitative and quantitative information on the working of the Directive.

The statistics include:

- **Statistics on the Automatic Exchange of Information (AEOI) under DAC1 and DAC2⁴ (AEOI Statistics)**, providing details on the information exchanged between the Member States on the incomes and assets gained or held abroad by non-resident taxpayers. The statistics are supplied to TAXUD by national tax authorities, and the dataset is structured on the basis of standardised formats (the so-called 'queries'). The volume of information is substantial, and the spreadsheets related to specific queries include up to several thousand records. The information is available, to a varying degree and with different levels of comprehensiveness, for 2015 and 2016 (DAC1) and 2017 (DAC1 and DAC2).
- **DAC3⁵ Statistics**, which encompass the data on cross-border advance tax rulings and pricing agreements exchanged among the Member States. The dataset consists of a single spreadsheet listing the information sent by each Member State from mid-2017 to early 2018.
- **Committee on Administrative Cooperation for Taxation (CACT) Statistics**, including data on the volume of Administrative Cooperation in Direct Taxation (ACDT) activities other than AEOI. The information is provided by the Member States on the basis of templates agreed upon within the CACT. CACT Statistics are available for four years, from 2013 through 2017, and provide a detailed mapping of bilateral flows between Member States and data on the use of non-AEOI tools, as well as some information on the results of ACDT activities.

The questionnaires include:

- **Yearly Assessment (YA)**, an annual survey carried out by DG TAXUD and addressed to the Member States to collect information on the activities related to the AEOI. The survey is run on the basis of a standard questionnaire, consisting primarily of closed questions. The related

⁴ In the jargon of this report, DAC1 AEOI and DAC2 provisions refer to the automatic exchange of information on incomes and assets gained or held abroad by non-resident taxpayers. Cf. Section 2.5 below.

⁵ DAC3 is the short form for the Directive provisions mandating the automatic exchange of information on advanced tax rulings and pricing agreements. Cf. *ibid.*

dataset is structured by country and includes mainly qualitative and some quantitative information, especially on the AEOI costs and benefits. The YA is available for all EU 28 States for 2015, 2016 and 2017.

- **Questionnaire on the Functioning of the Directive (QFD)** is another annual survey carried out by DG TAXUD and addressed to the Member States, which concerns the functioning of DAC, by covering the provisions other than AEOI. The resulting includes both qualitative information (e.g. degree of appreciation of the various provisions or quality of the interaction with other Member States) and quantitative information (e.g. number or frequency of problems encountered with the various provisions). The questionnaire also contains some narrative comments in response to the questionnaire. The QFD is available for all EU Member States, providing information on the period from 2013 through 2017, although, for the first two years, some countries provided unstructured answers rather than a compiled questionnaire.

The datasets made available by the Client were complemented with information from the analysis of **other documentary sources**, mostly academic studies and documents from international organisations and national governments. The full list of references is provided in Annex D.

Targeted consultation. Two streams of targeted consultations were deployed: for national tax authorities and for other stakeholders. In total, 39 institutions, organisations and economic operators from 15 Member States were consulted during the Study. The list of persons and institutions consulted is provided in Annex C. More in details:

- **Targeted consultation of tax authorities.** The targeted consultation of tax authorities was carried out in two rounds. Seven tax authorities⁶ were consulted in the initial phase of the Assignment in order to clarify a number of issues emerging from the analysis of the data on AEOI. They were selected based on the needs for clarifications emerged during the analysis of the statistics and questionnaires which led to the preparation of the interim report. The interactions were mostly via e-mail, supplemented by telephone follow-up when necessary. In the second phase of the Assignment, another round of targeted consultation with tax authorities was organised, covering 10 Member States.⁷ The selection of the authorities to be contacted was agreed with the Client, and was based on a two elements: first, the need to take into account the different situations in the Member States, in terms of country size, geographical location and institutional structure (e.g. federal countries); and secondly, to account for specific elements emerged during the analysis of secondary data. This consultation was carried out by means of semi-structured interviews, either by telephone or in person. The interviews were based on a questionnaire submitted in advance via e-mail, covering: (i) clarifications of existing information; (ii) an overall assessment of the Directive and of its tools; (iii) possible improvements to the Directive; and (iv) the efforts and costs associated with the non-automatic exchange of information and the reporting obligations (for selected Member States only). All in all, **14 tax authorities participated to the two phases of the targeted consultation.**
- **Targeted consultation of other stakeholders.** Private stakeholders were consulted throughout the course of the study by means of semi-structured telephone interviews, usually based on a questionnaire shared in advance. Financial sector organisations and companies, non-governmental organisations active in tax transparency themes, and tax advisors were targeted by these consultation activities. The targeted consultation focused on the overall assessment of the Directive, the costs for private operators and their customers of implementing the provisions on the exchange of information on financial assets, and the effects that the introduction of the AEOI of tax information had on taxpayers. In total, **25 stakeholders were consulted**, including six European organisations and 19 stakeholders from eight Member States.

⁶ Austria, Belgium, Finland, Latvia, Lithuania, Sweden and United Kingdom.

⁷ Belgium, Estonia, Finland, Germany, Greece, Hungary, Italy, the Netherlands, Poland, and Sweden.

Public Consultation. The Public Consultation (PC) was carried out by the European Commission, with the Consultants' support, in order to gather the appreciation of stakeholders and citizens on the functioning of the Directive. The consultation was launched on 10 December 2018 and it remained open until 4 March 2019, for a total of 12 weeks. **A total of 30 entities and individuals participated to the PC**, from 10 Member States.⁸

The PC questionnaire consisted of 48 questions, grouped into 6 sections. Two sections were common to all the respondents: Section A aimed at collecting basic information on the participant, and Section B at eliciting an overall assessment of the Directive. Four additional sections were customized based on the typology of the respondent, according to the following categories: C) individual taxpayers; D) legal entities and legal arrangements; E) providers of tax advice and accountancy services; and F) financial institutions. Stakeholders could upload an additional document at the end of the questionnaire and nine respondents did so.

1.4 Methodological considerations, data limitations, and mitigation strategies

Issues with statistical sources. The statistical datasets on administrative cooperation made available by the Client included a wealth of information, but also displayed several weaknesses that needed to be addressed before initiating the analysis. In particular, the **AEOI Statistics** dataset included invalid or duplicate records, as well as anomalies and abnormal data. The datasets were refined by manually to exclude irrelevant and invalid messages based on a set of criteria identified with the assistance of the Client. The abnormal values identified were discussed with the relevant tax authorities during the targeted consultation and corrected or confirmed as appropriate. While the process resulted in a homogeneous and coherent database of information, there is no guarantee that no anomalies remained undetected.

The main issue affecting the **CACT Statistics** datasets concerns several inconsistencies in the information reported by Member States. This is possibly a consequence of the fact that, differently from AEOI Statistics that are automatically extracted by the IT systems, the CACT Statistics are manually compiled. The main inconsistency regards bilateral interaction among Member States: in fact, for many of the provisions, each Member State compiles the statistics both as senders/initiators of a certain action, and as recipient/participant. The figures reported on the same interaction by any two Member States are not fully aligned and, in some cases, they differ substantially. The analysis of trends in the uptake of the various provisions (analysed in Section 4 of this Report), unless otherwise specified, are based on the figures reported by the sender/initiator.

Issues with questionnaires. As usual for more qualitative sources of evidence, both the **YA and QFD** are affected by several issues which mainly affect the internal consistency of the answers, and the comparability with other sources (especially the Statistics). Although the two questionnaires are rather different both in their structure and scope, the issues affecting them are broadly similar. First and foremost, both questionnaires were **modified over the years**. For the YA, the main change was its expansion to DAC2 and DAC3 in 2017, while the structure remained mostly unchanged. On the other hand, the QFD was fully transformed in 2016 and then substantially shortened in 2018. Consequently, the information available is not homogeneous, with some questions asked only in one or two of the three versions of the QFD, and other questions or the answer options phrased differently over the various years. The analysis reports explicitly whenever a homogeneous information is not available for the whole five-year period

The information from the questionnaire is also affected by other issues, partly having to do with the **construction of the questionnaires**. These include the inclusion, particularly in certain sections of the YA, of several non-mutually exclusive options allowing for somehow contradictory

⁸ Belgium, Denmark, France, Germany, Ireland, Italy, Romania, Spain, Sweden, and the United Kingdom. For more information about the respondents' profile, cf. Annex A.

answers. In other cases, issues seem to be more connected to the **compilation of the questionnaires by national tax authorities**. Several questionnaires present inconsistencies, either within the same questionnaire, or between the questionnaires compiled by the same Member State over time. Whenever possible, these inconsistencies were discussed with national tax authorities, so to distinguish incorrect information from e.g. actual changes in strategies over time. In other cases, obvious inconsistencies, e.g. mutually exclusive answers, were treated as clerical mistakes and corrected. Finally, whenever the information from the questionnaires was in contradiction with the AEOI or CACT Statistics, preference was given to the latter.

Evolving Nature of the Directive. The Assignment concerns the consolidated version of the Directive in force on January 1, 2018. As described in Sections 2, the consolidated Directive is the result of **a series of legislative acts that were adopted over a period of five years**, i.e. between 2011 and the end of 2016, some of which have only recently entered into force. **The different vintage of provisions has non-trivial repercussions on the Assignment**, limiting the scope and the level of detail of certain parts of the analysis. In particular, a comprehensive assessment is only possible for the oldest provisions, primarily DAC1 (both non-AEOI and AEOI) and to a certain extent DAC2. On the contrary, the more recent provisions still have to produce their effects, or, in the case of country-by-country reporting, were in the very first period of implementation at the time of writing. Overall, the recent entry into force or implementation of parts of the Directive results in an imbalance in the analysis, as it was possible to reach reasonably firm conclusions only for some aspects, while for others the assessment remains tentative.

Mismatch Between Costs and Benefits. The different vintage of provisions and the different timing envisaged by the activities required by the Directive also originates **a mismatch in the possibility of assessing both the costs and benefits**, as the former have been incurred upfront, while the latter require time to materialise. In addition, the consultations carried out for the Assignment highlighted the difficulties in reporting the benefits, particularly in terms of additional tax assessed and, even more, collected. This is mainly due to the fact that international cooperation activities are often only one of the many actions taken or sources of information consulted in the framework of a tax investigation or audit. It is thus complicated for tax authorities to track all the results of administrative cooperation, and to disaggregate them from the effect of other policies and tools, or from administrative cooperation with non-EU countries. In practice, this means that **the analysis of the costs and benefits of the Directive is skewed in favour of the former**. As a consequence, no structured methodology for the comparison of benefits and costs, such as the cost-benefit analyses, was used. The available evidence on the relative magnitude of the costs and benefits of the Directive, together with some considerations on the possible future developments, are nevertheless provided in Section 7.

Absence of Baseline/Targets. In principle, **the performance of a public intervention should be assessed against a 'yardstick'**, i.e. with respect to the certain targets or at least in comparison with the so-called baseline, consisting in some form of *ex ante* analysis of the situation prior to the adoption of the policy to be evaluated.⁹ In the case of the Directive, **no targets were established ex ante, and the availability of baseline information is limited to certain aspects**. Accordingly, the assessment mostly relies on: (i) an appreciation of the **evolution overtime of the relevant variables** (e.g. trend in the volume of data exchanged under AEOI or in the participation in simultaneous controls); and (ii) the **stakeholders' perception** regarding the performance against their expectations. While such an approach is not dissimilar from for other EU legislative initiatives (for which the absence of targets and baseline data is a common occurrence), it must be noted that **it inevitably introduces an element of subjectivity in the analysis**.

⁹ In the case at hand, a baseline analysis would have consisted in taking stock of the results brought about by the Mutual Assistance Directive and the EU Savings Directive and the remaining gaps. Cf. Sections 2.3 and 2.4 below; cf. also notes 13 and 29 for the references to the Directives.

1.5 Structure of the Report

The remainder of the Study is structured as follows:

- Section 2 provides the **background information** on administrative cooperation in direct taxation, encompassing a description of the EU legal framework and its evolution;
- Section 3 assesses the **transposition** of DAC provisions into national legislation and their operationalisation;
- Section 4 describes in detail the **uptake** of the various tools and mechanisms for administrative cooperation established by the Directive;
- Section 5 addresses the **relevance** of the Directive, i.e. the extent to which it has addressed the identified needs;
- Section 6 deals with the **effectiveness** of the DAC by examining to what extent the Directive has generated the expected outcomes and impacts, thus achieving its objectives, and the factors that possibly hindered such an achievement;
- Section 7 deals with the **efficiency** of the Directive by measuring the regulatory costs and cost savings generated for tax authorities and economic operators;
- Section 8 investigates the **coherence** of the Directive, namely the internal consistency of its provisions and definitions and the alignment with other EU acts;
- Section 9 assesses the **EU added value** associated with the Directive
- Section 10 presents the **possible ways forward**, reviewing the stakeholders' opinions on possible revisions to the Directive, and the **conclusions** of the Study

In addition to the main text, the Report includes four Annexes:

- Annex A, including the synopsis report of the results of the Public Consultation;
- Annex B, including the evaluation matrix for the Assignment;
- Annex C, providing the list of persons and institutions consulted during the Assignment;
- Annex D, including the list of references consulted;
- Annex E, providing detailed information on the national measures transposing the Directive;
- Annex F, including a detailed overview of DAC1 AEOI for the five categories of income covered by the provision; and
- Annex G, with detailed information on the AEOI implementation costs that were incurred by national authorities.

2. BACKGROUND, LEGAL FRAMEWORK AND INTERVENTION LOGIC

2.1 Introduction

This Section provides the **background information** on the notion of Administrative Cooperation in Direct Taxation (ACDT) and on related developments, as well as a description of the **relevant EU legal framework**. The Section is structured as follows: (i) Section 2.2 covers the basic concepts of ACDT and Exchange of Information (EOI); (ii) Sections 2.3 and 2.4 summarise the key developments in ACDT at the international and EU levels; (iii) Section 2.5 briefly describes the provisions of Directive 2011/16 and the supporting groups operating at the European level and (iv) Section 2.6 illustrates the Intervention Logic of the Directive.

2.2 Basic Concepts

Taxation systems show major variations across countries, with significant differences in tax rates, types of incomes and assets subject to taxation, rules for deductibility, minimum thresholds, etc. In an increasingly globalised world, these **differences in national tax systems have a major economic impact**, as businesses are able to shift profits across borders (i.e. to engage in so-called 'jurisdiction shopping'), taxpayers can earn income from abroad without being taxed, and tax decisions in a certain country may affect other countries' tax bases. As many taxes (in particular, income taxes) follow the progressivity principle and wealthier economic agents are comparatively more active in cross-border activities, **differences in national tax systems may also have broader societal impacts**, contributing to income inequality and concentration of wealth. In this context, access to information on the incomes earned and/or the assets held abroad by resident taxpayers is of paramount importance to tax authorities.

The circumstances above have led to the **development of various cooperation mechanisms**, cumulatively referred to as 'Administrative Cooperation in Direct Taxation' (ACDT). This includes all **transnational cooperation activities** among the tax authorities of different countries that are intended to **combat tax fraud and evasion** resulting from the **non-declaration of incomes originating from or assets held in non-residence countries**. Over time, the notion of ACDT has been broadened to encompass activities intended to **combat tax avoidance**, especially when associated with situations of 'harmful tax competition'.¹⁰

The concept of ACDT is often understood to encompass four types of activities, namely: (i) the **exchange of information regarding taxpayers, their incomes, assets, or taxes paid**, by automatic means, on request, or spontaneously; (ii) the **exchange of information on tax decisions having a potential transnational effect**, as in the case of the so-called advance tax rulings and advance pricing arrangements;¹¹ (iii) the joint participation in **administrative enquiries** and/or the carrying out of **simultaneous controls**; and (iv) the provision of **assistance in the notification of taxpayers** on decisions or instruments regarding their tax liabilities.

¹⁰ The concept of harmful tax competition was developed in the late 1990s by the OECD. See OECD, Harmful Tax Competition: An Emerging Global Issue, April 1998. While there is no accepted definition, the concept is generally understood to designate 'beggar-thy-neighbour' situations, whereby a certain country seeks to attract certain economic activities by setting abnormally low tax rates and/or by offering equivalent tax privileges. For more information see also DG TAXUD's webpage https://ec.europa.eu/taxation_customs/business/company-tax/harmful-tax-competition_en

¹¹ An advance tax ruling (ATR) is a written, binding interpretation of applicable tax law issued by a tax authority to the benefit of an individual or, more often, corporate taxpayer. An advance pricing agreement (APA) is an ahead-of-time agreement between a tax authority and a taxpayer, typically a corporate entity, regarding the transfer pricing methodology to be used for determining the taxable income of certain types of transactions over a certain period of time. Conceived to minimise the risk of tax disputes, APA and ATR are often exploited by taxpayers acting internationally to reduce their overall tax burden (e.g. by shifting profits from high tax to low tax jurisdictions). This practice is generally known as 'aggressive tax planning', which involves taking advantage of technicalities loopholes in tax law and/or of mismatches between tax regulations in different countries. For a more detailed analysis, see EC, Staff working paper - The internal market: factual examples of double non-taxation cases - Consultation document, undated (but 2012).

At a more practical level, **the ACDT requires an EOI between national tax authorities**, which may concern **data related to a variety of taxes**, applicable to both natural and legal persons. Depending upon the types of exchanges, discussed below, the information can be transmitted at distance or through the joint presences of tax officials from different countries.

Three types of exchanges, could be generally identified, namely: (i) the **Exchange Of Information On Request (EOIR)**, which refers to foreseeably relevant information expressly solicited by the requesting country, and which may concern information already available to the supplying country, or requiring additional enquiries therein; (ii) the **Automatic Exchange Of Information (AEOI)**, which refers to the transmission of information in bulk for all the persons, transactions or tax rulings fulfilling certain criteria, using predefined formats, secured channels of communication, and at predetermined times; and (iii) the **Spontaneous Exchange Of Information (SEOI)**, which refers to the unsystematic, voluntary provision of information that the supplying country may deem to be of interest to the receiving country. Other forms of administrative cooperation include (i) the **Presence in Administrative Offices and participation in administrative Enquires (PAOE)**, which allow the requesting country to be present in the administrative offices or during administrative enquires in the territory of the country receiving the request; and (ii) the **Simultaneous Controls (SC)** of one or more taxpayers of common interest to two or more countries.

2.3 Global Trends in ACDT

Provisions intended to facilitate ACDT were already included in the double taxation treaties that were adopted prior to the Second World War, with some examples going back to the early XIX century.¹² In more recent times, the first major initiative aimed at strengthening ACDT and, in particular, at fostering EOI was the **Convention on Mutual Administrative Assistance in Tax Matters**, which was adopted in 1988 by the Organization for Economic Co-operation and Development (OECD) and the Council of Europe (COE) and still represents a solid multilateral instrument for fighting tax evasion and avoidance. As part of the general drive intended to prevent harmful tax competition, the Convention was complemented by the introduction of a model for **Tax Information Exchange Agreements (TIEA)**, constituting the template for bilateral EOI arrangements and aiming at improving reporting standards and tax transparency.

The AEOI approach was first implemented with the **Savings Taxation Directive (EUSD)**,¹³ adopted by the EU in 2003, which required Member States to share information on interest payments or sales proceeds from financial assets made to non-resident individuals (or alternatively, to impose a withholding tax on those payments). As these requirements were extended to five other European countries (Switzerland, Andorra, Liechtenstein, Monaco and San Marino) as well as to Member States' dependent territories through the signing of specific 'savings agreements', **the EUSD contributed to the creation of the first multinational AEOI programme**.¹⁴ At the same time, the US introduced an additional scheme to its bilateral treaties, the **qualified intermediary programme**, involving cooperation with a large number of foreign financial institutions.¹⁵ However, the EUSD provisions could be easily circumvented and the qualified intermediary programme was on a voluntary base, thus neither of the above initiatives was particularly successful. Nevertheless, they constituted important precedents upon which subsequent initiatives were able to build.

¹² An excellent overview of early developments in ACDT is provided in Jogarajan S, *Prelude to the International Tax Treaty Network: 1815–1914 Early Tax Treaties and the Conditions for Action*, *Oxford Journal of Legal Studies*, Winter 2011.

¹³ Council Directive 2003/48/EC of 3 June 2003 on taxation of savings income in the form of interest payments.

¹⁴ For a detailed analysis of the EUSD, see EC, *Report from the Commission to the Council in accordance with Article 18 of Council Directive 2003/48/EC on taxation of savings income in the form of interest payments*, 2 March 2012 (hereinafter, the '2012 EUSD Report').

¹⁵ For a summary description of the Qualified Intermediary scheme see <https://www.pwc.lu/en/tax-transparency-exchange-of-information/qualified-intermediary.html>.

The pace towards a more widespread utilisation of AEOI accelerated during the early 2010s. In 2010, the US Congress passed the Foreign Account Tax Compliance Act (FATCA), which required financial institutions active worldwide to report information on the assets held by US citizens overseas. Initially conceived as a unilateral initiative, in subsequent years FATCA was complemented by **a series of intergovernmental agreements**, which effectively led to the creation of the **first global framework for AEOI**.¹⁶ In the EU, **Directive 2011/16 was adopted**, which deeply innovated the EU ACDT system and introduced the AEOI for certain categories of incomes gained or assets held in Member States other than the one of tax-residency (see below).

In 2013, the AEOI was endorsed as the new global standard by the G20, thus leading to the **development of standards for the Automatic Exchange of Financial Account Information**. At the more operational level, this translated into the definition of the so-called **Common Reporting Standard (CRS)**, which specifies the details of what information is to be exchanged as well as the relevant operational modalities.¹⁷ As of November 2018 no less than 108 jurisdictions had committed to exchanging information on the basis of the CRS, with 49 jurisdictions conducting their first exchanges by 2017 and 51 jurisdictions engaging in such exchanges by 2018.¹⁸

With regards to the exchange of information other than by automatic means, beginning in 1963 the OECD has developed and updated a **Model Tax Convention on Income and on Capital** (hereinafter 'Model Tax Convention'), which since its initial publication has been considered a benchmark for designing and implementing tax agreements between contracting parties, including provisions on exchange of information.¹⁹ The Model Tax Convention led to European developments on EOIR, especially with the update in 2005 of Article 26²⁰, which ensures the exchange of information even in absence of domestic interest of the requested state, and in cases in which the information is held by a bank or other financial institutions. Article 26 of the OECD Model Tax Convention and its Commentary²¹ also delineate other forms of administrative cooperation such as the possibility for tax authorities to conduct simultaneous examinations or to participate in tax examinations abroad.

The application of the international standards on EOIR and AEOI is monitored and supervised by the **Global Forum on Tax Transparency and Exchange of information for Tax Purposes** (hereinafter, the 'Global Forum'), which was established in 2009. It plays a pivotal role in the application of the EOIR framework by conducting '**peer reviews**' to monitor and assess the compliance to the standards of the Global Forum Terms of Reference of the participating jurisdictions.²² The first round of reviews took place in 2010, whereas the second round started in 2016, and it is still ongoing at the time of writing. The latter will look also at the compliance with the strengthened standards on the availability of and access to beneficial ownership information.²³ The peer reviews play a crucial role in encouraging all jurisdictions to comply with the global standards on EOI, since their reports include ratings and recommendations on what progress jurisdictions need to make, as regards both the regulatory framework and its implementation. In the area of AEOI, the Global Forum will start its monitoring activities in 2020.

¹⁶ For a review of FATCA and related developments, see Deloitte, The road ahead: An in-depth analysis of the final FATCA regulations, 22 April 2013.

¹⁷ For more details, see OECD, Standard for Automatic Exchange of Financial Account Information in Tax Matters, Second Edition, 2017.

¹⁸ See <https://www.oecd.org/tax/transparency/AEOI-commitments.pdf>

¹⁹ Latest version: OECD (2017), Model Tax Convention on Income and on Capital: Condensed Version 2017, OECD Publishing.

²⁰ Update to Article 26 of the OECD Model Tax Convention and its Commentary approved by the OECD Council on 15 July 2005.

²¹ Cf. above note 19.

²² Terms of Reference to Monitor and Review Progress Towards Transparency and Exchange of Information on Request for Tax Purposes (hereinafter the 'EOIR Terms of Reference'). Last update (2016) at <http://www.oecd.org/tax/transparency/about-the-global-forum/publications/terms-of-reference.pdf>

²³ <http://www.oecd.org/tax/transparency/about-the-global-forum/publications/terms-of-reference.pdf>

The efforts to strengthen AEOI were paralleled by developments in the area of counteracting tax avoidance, to limit the possibility for multinational enterprises to exploit gaps and mismatches between different countries' tax systems. In 2013, the G20 called upon the OECD to develop a comprehensive **action plan against the so called 'Base Erosion and Profit Shifting'** (BEPS), which was presented by the OECD in 2015.²⁴ This led to the identification of 15 Actions and a set of recommendations that OECD members should implement on a voluntary basis. It was followed by the **creation of an Inclusive Framework on BEPS**, intended to monitor worldwide developments in this area. As of January 2019, no less than 125 countries and jurisdictions had become members of the framework.²⁵

Among the various actions, Action 13 covers the so-called **Country-by-Country reporting** (CbCR), which requires Multinational Enterprises (MNE) to provide a detailed geographical account of their revenues and costs and allows tax administrators to **automatically exchange key financial indicators of MNEs** through a standardised CbCR format, defined in October 2015.²⁶

With the 2015 OECD BEPS package, **mandatory minimum standards for the spontaneous exchange of information on tax rulings** have been introduced under 'Action 5'. Specifically, details on tax rulings with a cross-border relevance are to be exchanged between those countries that have ratified the Multilateral Convention on Mutual Administrative Assistance in Tax Matters and have committed to the minimum standard established by the OECD (thus including the OECD and the G20 countries).

International actions to enhance cooperation between tax administrations have also been implemented in the context of the **fight against serious crimes and money laundering**. In 2010, the OECD adopted a Recommendation²⁷ encouraging adherent states to create an administrative and legal framework that facilitates the sharing of information on suspicions of serious crimes between the tax and the Anti-Money Laundering (AML) authorities. The work of the OECD complements the previous efforts carried out by the Financial Action Task Force (FATF) and, in particular, the 2012 revision of the '**FATF Recommendations**', which are recognized as the international standards on combatting money laundering and other related crimes. The FATF Recommendations have been first published in 1990 and are regularly updated since then.²⁸

2.4 The EU Framework on ACDT

At the European level, the **first initiative in ACDT was the adoption in 1977 of the Mutual Assistance Directive** (MAD),²⁹ which complemented an earlier initiative in the area of mutual assistance in the recovery of tax claims.³⁰ Initially aimed at supporting administrative cooperation in all areas of taxation, including VAT and excise duties, the MAD was repeatedly amended and gradually refocused towards cooperation in direct taxation matters. The MAD played an instrumental role in promoting the implementation of ACDT across the EU, in principle covering all types of ACDT activities, including AEOI.

²⁴ For more information, please refer to <http://www.oecd.org/tax/beps/beps-about.htm>.

²⁵ OECD, Members of the Inclusive Framework on BEPS, Updated: January 2019. Available at: <https://www.oecd.org/ctp/beps/inclusive-framework-on-beps-composition.pdf>

²⁶ OECD, Transfer Pricing Documentation and Country-by-Country Reporting, Action 13 - 2015 Final Report, 2 October 2015 (hereinafter, the '2015 CbCR Report').

²⁷ Recommendation of the Council to Facilitate Co-operation between Tax and Other Law Enforcement Authorities to Combat Serious Crimes, adopted on 14 October 2010.

²⁸ For more information, please see <http://www.fatf-gafi.org/publications/fatfrecommendations/documents/fatf-recommendations.html>

²⁹ Council Directive 77/799/EEC of 19 December 1977 concerning mutual assistance by the competent authorities of the Member States in the field of direct taxation.

³⁰ Council Directive 76/308/EEC of 15 March 1976 on mutual assistance for the recovery of claims resulting from operations forming part of the system of financing the European Agricultural Guidance and Guarantee Fund and of agricultural levies and customs duties.

As indicated above, **a major change occurred in the mid-2000s, with the entry into force of the EUSD.** However, its effectiveness was significantly limited by the existence of loopholes, which allowed circumventing some of its provisions.³¹ To address these problems, the EUSD was amended in early 2014 but then repealed shortly afterwards, as its provisions were consolidated in the other legislation on ACDT (see below).

The **EU ACDT system was completely modified in the early 2010s** with the adoption of the Regulation on administrative cooperation in the fields of VAT³² and of the first version of Directive 2011/16 on Administrative Cooperation (DAC1).³³ **Directive 2011/16 is the most important piece of EU legislation on administrative cooperation among Member States for taxes other than VAT, excise, and customs duties.**³⁴ Entering into force in 2013, the Directive repealed the abovementioned Mutual Assistance Directive, which was deemed to be no longer adequate to cope with the new challenges.

Direct taxation falls within the competence of the Member States. However, Member States must exercise this competence in a manner that is consistent with EU principles and other relevant legislation. Accordingly, **the legal basis for the Directive is Article 115 of the Treaty on the Functioning of the European Union (TFEU),** which refers to the approximation of national legislation that directly affects the establishment or functioning of the Internal Market. However, the Directive also covers capital assets, possibly including indirect forms of taxation. Therefore, **its legal basis also includes Article 113 TFEU,** which empowers the Council to adopt provisions for the harmonisation of legislation concerning, among others, “other forms of indirect taxation”, again to the extent to which it is necessary for the “establishment or functioning of the Internal Market and to avoid distortion of competition”.

DAC1 strengthened the mechanisms for EOI, and in particular for AEOI, as it required Member States to mandatorily exchange information in an automated manner without prior request on selected categories of incomes and capital regarding taxable periods as of 1 January 2014. Other important innovations included: (i) the alignment of non-AEOI provisions with the international standards, particularly as regards the impossibility to use the absence of domestic tax interest or bank secrecy as reasons to not provide information; (ii) the introduction of time limits, feedback provisions, standard forms and secured channels for EOI; and (iii) the extension of cooperation on a voluntary basis to include the presence and participation of staff during administrative enquiries.

In the subsequent years, **the scope of DAC1 was progressively expanded through successive amendments,** partly triggered by developments at the OECD/G20 level. A **first amendment,** adopted in late 2014 (**DAC2**),³⁵ extended the scope of mandatory AEOI to financial accounts held by non-residents on the basis of the CRS format, hence ensuring the continuation of some of the reporting obligations from the EUSD, which was no longer in force

³¹ The main issues related to the possibility of routing the payments through a financial institution based in a jurisdiction not subject to reporting and the possibility for individuals of interposing a company. For a detailed analysis see the 2012 EUSD Report.

³² Council Regulation (EU) No 904/2010 of 7 October 2010 on administrative cooperation and combating fraud in the field of value added tax (hereinafter, the ‘Regulation on administrative cooperation in VAT matters’).

³³ Throughout this Report, the original version of the Directive is referred to as DAC1 while the Directive as amended and in force at the beginning of 2018 is referred to as the Directive or DAC.

³⁴ The Directive is complemented by the so-called Recovery Directive, which aims at strengthening mutual assistance between Member States for the recovery of claims relating to taxes, duties, levies and EU funds channeled to the agricultural sector. Council Directive 2010/24/EU of 16 March 2010 concerning mutual assistance for the recovery of claims relating to taxes, duties and other measures.

³⁵ Council Directive 2014/107/EU of 9 December 2014 amending Directive 2011/16/EU as regards mandatory automatic exchange of information in the field of taxation.

since the end of 2015.³⁶ A **second amendment**, adopted in late 2015 (**DAC3**),³⁷ was aimed at increasing the transparency related to cross-border Advance Tax Rulings (ATR) and Advance Pricing Agreements (APA) issued by tax authorities through mandatory automatic exchange. A **third amendment**, adopted in mid-2016 (**DAC4**),³⁸ focused on mandatory AEOI in the area of corporate taxation, and introduced the obligation of CbCR for multinational enterprises operating in the EU. Finally, a **fourth amendment**, adopted in late 2016 (**DAC5**),³⁹ ensured that tax authorities would have access to beneficial ownership information gathered in the context of AML legislation, in particular the Fourth Anti-Money Laundering Directive (hereinafter the '4th AML Directive').⁴⁰ A diagram providing an overview of the key developments in ACDT at international and EU levels is provided in Exhibit 2.1.

³⁶ On this point, see the analysis provided in Deloitte, DAC vs EUSD – Conceding the battle to win the war (against tax evasion)? undated (but late 2014/early 2015).

³⁷ Council Directive (EU) 2015/2376 of 8 December 2015 amending Directive 2011/16/EU as regards mandatory automatic exchange of information in the field of taxation.

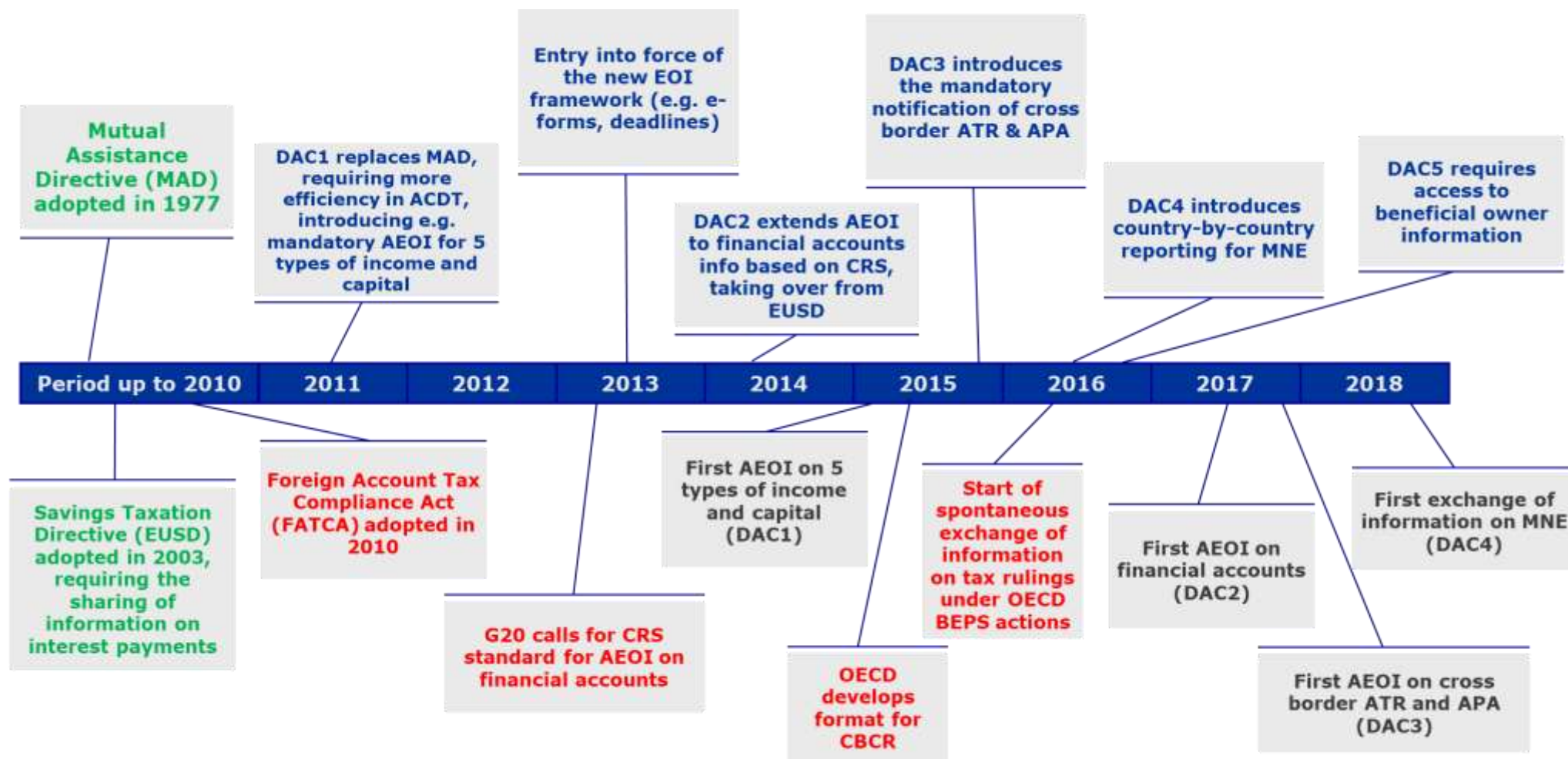
³⁸ Council Directive (EU) 2016/881 of 25 May 2016 amending Directive 2011/16/EU as regards mandatory automatic exchange of information in the field of taxation.

³⁹ Council Directive (EU) 2016/2258 of 6 December 2016 amending Directive 2011/16/EU as regards access to anti-money-laundering information by tax authorities.

⁴⁰ Directive (EU) 2015/849 of the European Parliament and of the Council of 20 May 2015 on the prevention of the use of the financial system for the purposes of money laundering or terrorist financing, amending Regulation (EU) No 648/2012 of the European Parliament and of the Council, and repealing Directive 2005/60/EC of the European Parliament and of the Council and Commission Directive 2006/70/EC.

Exhibit 2.1 Summary of Key Developments in ACDT

- **First EU initiatives in ACDT**
- **DAC and related amendments**
- **Developments in ACDT at international level**
- **First exchanges of information under DAC**



2.5 Key Features of the Directive

For the sake of clarity, in this report the DAC-related provisions are analysed by distinguishing between “AEOI Provisions”, “Provisions on EOI other than AEOI”,⁴¹ “OFACDT” and “General Provisions”. A synopsis of the provisions of the Directive is provided in Exhibit 2.2.

Exhibit 2.2 Synopsis of the Provisions of the Directive on Administrative Cooperation

Articles	Content	Comments
Chapter I – General Provisions		
Articles 1 through 4	Describe the nature of cooperation, specify the areas of applicability and exclusion (notably VAT and social contributions), provide the definition of concepts used in the text, and lay out the institutional setting (Competent Authorities and Central Liaison Office)	Provisions included in DAC1, but Article 3 partly modified by DAC3 and DAC4
Chapter II - Exchange of information		
Articles 5 through 7 (EOIR)	Describe the procedures for EOIR, including time limits, and the scope and conditions for related administrative enquires.	Provisions included in DAC1
Article 8 (AEOI)	Describes the conditions and modalities for the AEOI on: (i) five types of incomes & capital and (ii) financial information	Article included in DAC1 but partially modified by DAC2 and DAC3
Article 8a (AEOI)	Describes the conditions and modalities for the AEOI on cross border ATR and APA	Article introduced by DAC3
Article 8aa (AEOI)	Describes the conditions and modalities for the AEOI on country-by-country reporting	Article introduced by DAC4
Article 8b (AEOI)	Requires Member States to provide the European Commission with statistics and other information on exchanges as per Art. 8 and 8a. Provides for the preparation of AEOI report by the European Commission on the basis of yearly assessment and statistics on AEOI.	Article 8b was introduced by DAC3, but the same content was already present in Article 8 of DAC1
Articles 9 through 10	Describe the procedures for SEOI, including time limits	Provisions included in DAC1
Chapter III - Other forms of ACDT		
Articles 11 through 13	Specify the scope, conditions and procedures for PAOE, simultaneous controls and assistance in notification of tax decisions	Provisions included in DAC1
Articles 14 and 15	Specify the conditions and procedures, including time limits, for exchanging feedback and sharing best practices	Provisions included in DAC1
Chapter IV - Conditions governing administrative cooperation		
Articles 16 through 19 and Article 22	Address issues related to disclosure of information, general and specific obligation of Member States and related limitations, and extension of ACDT to third countries	Provisions included in DAC1, but Article 16 modified by DAC4 and Article 22 modified by DAC5
Articles 20 and 21	Define the standard forms and computerised formats to be used in EOI and specifies related practical arrangements, namely concerning CCN and the development of a secure Central Directory for recording the information exchanged	Provisions included in DAC1, but modified by DAC2, DAC3 and DAC4
Chapter V - Relations with the Commission		
Articles 23 and 23a	Address evaluation arrangements and confidentiality of information	Article 23 included in DAC1, but modified by DAC3 and DAC4. Article 23a introduced by DAC3, but the same content was under Article 23 in DAC1
Chapter VI - Relations with third Countries		

⁴¹ Throughout this Report, “Provisions on EOI other than AEOI” refer to Exchange of Information other than AEOI, and in particular the exchange of information on request and the spontaneous exchange of information, while “non-AEOI provisions” refer to all activities other than AEOI, i.e. “Provisions on EOI other than AEOI” and “OFACDT”.

Article 24	Specifies the conditions for the exchange of information with third countries	Article included in DAC1
Chapter VII - General and final provisions		
Article 25	Defines the scope of application and actions needed in relation to data protection.	Article included in DAC1, but modified by DAC2 and DAC3
Article 26	Specifies the role of the Committee on administrative cooperation for taxation	Article included in DAC1, but modified by DAC4
Article 25a and Articles 27 through 31	Include provisions on penalties for non-compliance, reporting, repeal of MAD, transposition and entry into force	Article 25a introduced by DAC4; Articles 27 to 31 included in DAC1

As spelled out in Articles 20 and 21, the exchanges of information are performed using standard forms as far as possible and computerised formats (hereinafter 'e-forms'). Accordingly, DG TAXUD developed and operated the **Common Communication Network (CCN)**, to support common policies and ensure the necessary level of confidentiality and security. An exception is made for AEOI DAC3 as it does not foresee mandatory bilateral exchanges. Thus, the information on cross-border rulings is uploaded in a **Central Directory** managed by the Commission whose contents are only available to Member States.⁴²

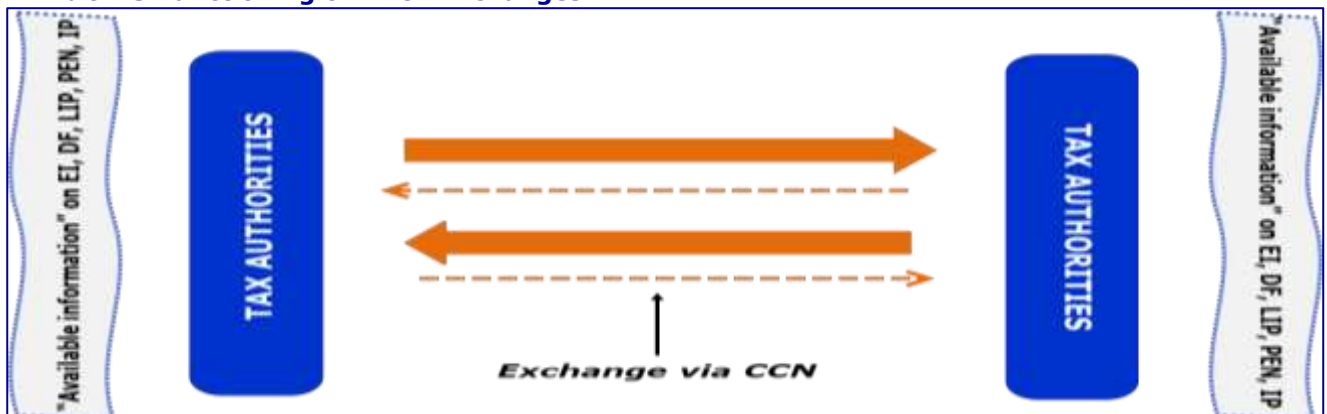
2.5.1 AEOI Provisions

The provisions concerning the **mandatory AEOI** fall into four groups.

DAC1 AEOI Provisions. Articles 8(1), (2) and (3) focus on the **AEOI for five categories of income and capital**, namely: (i) Employment Income (EI), (ii) Director's Fees (DF), (iii) Life Insurance Products (LIP), (iv) Pensions (PEN), and (v) ownership of and income from Immovable Property (IP). This is the oldest provision on mandatory AEOI. The Directive does not detail the specific types of incomes and assets subject to information exchange, the matter being left to the national legislation of the sending Member States. Information on incomes and assets must be accompanied by the so-called 'identification elements' (TIN, name, address, etc.), so as to allow for the identification of the relevant taxpayers. The exchange of information concerning the five categories of income, as well as the inclusion of identification elements are **subject to availability**, and no additional collection of information is required by the Directive.⁴³ Tax authorities are required to **communicate the information at least once a year and within six months** after the end of the tax year during which the information becomes available, starting from 1 January 2014.

The functioning of DAC1 exchanges is summarised in Exhibit 2.3 below.

Exhibit 2.3 Functioning of DAC1 Exchanges



⁴² The Commission does not have any access to the information exchanged, but can extract statistical information on the activities of Member States from the Directory.

⁴³ According to Article 3(9) of DAC "available information relates to information in the tax files of the Member State communicating the information, which is retrievable in accordance with the procedures for gathering and processing information in that Member State". The 'availability clause' is intended in dynamic terms, since Member States are required to constantly communicate to the Commission if any change occurs in their set of available information.

DAC2 AEOI Provisions. The **AEOI on financial information** is covered by Article 8(3a), with further details provided in Annexes I and II to the DAC. The information to be exchanged concerns the interest paid, dividends distributed and any other income accruing to non-resident taxpayers – both legal and natural persons – together with the end-of-year value of the account balance. **The information is to be collected by financial institutions** (e.g. banks, investment funds, insurance companies) and transferred to the national tax authorities for further automatic exchange. Financial institutions are also responsible for identifying the persons and accounts for which information must be provided (i.e. the Reportable Persons and Accounts). DAC2 provisions build upon the CRS model and format developed at the OECD level, and their due diligence as well as reporting requirements are further specified in Annexes I and II to the Directive. **Exchange of financial information** shall take place **annually, within nine months** after the end of the calendar year or the reporting period to which the data relate, starting from 1 January 2016.

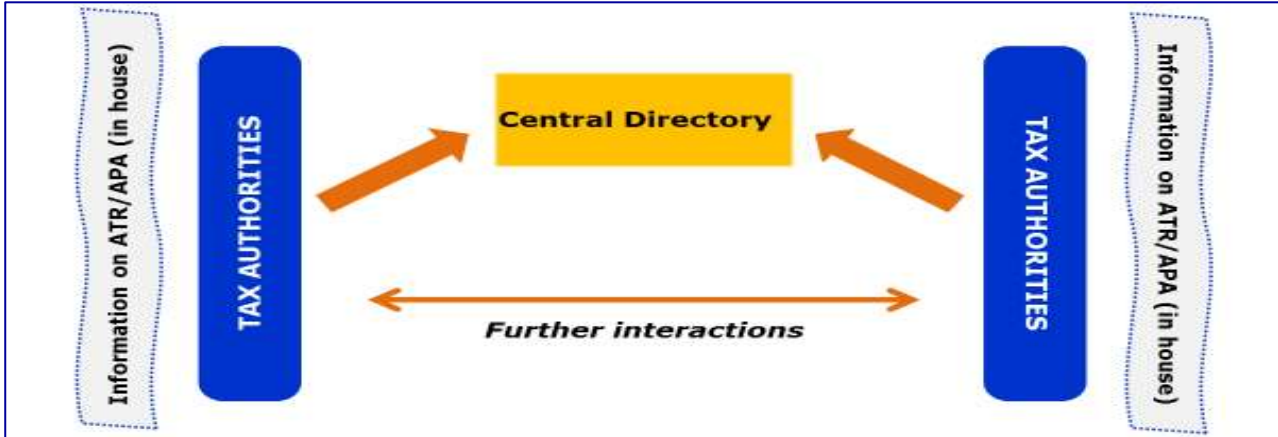
The functioning of DAC2 exchanges is summarised in Exhibit 2.4 below.

Exhibit 2.4 Functioning of DAC2 Exchanges



DAC3 AEOI Provisions. Article 8a, introduced in 2015 by DAC3, requires the **AEOI on the basic features of the cross-border ATR issued for legal persons and the APA affecting EU countries**. Basic information to be exchanged on the rulings includes the identity of the beneficiary, a summary of the contents, the date of issuance or renewal, the duration and the amount of the transactions. Member States can **request more detailed information**, including the full text of the ruling. As in the case of DAC2, DAC3 provisions also build upon previous work done at the OECD level, namely in the case of the BEPS 5 Action (see Section 2.3 above). DAC3 provides for **two deadlines per year**, as exchanges are to be performed within three months after the end of the semester during which the ATR/APA have been issued, amended or renewed. Exchanges were to apply (i) all ATR/APA issued, amended or renewed after 31 December 2016. Furthermore, Member States were required to exchange by 1 January 2018 (ii) all ATR/APA issued, amended, or renewed in 2012 and 2013, if still valid as of 1 January 2014; and (iii) all ATR/APA issued, amended, or renewed in 2014, 2015 and 2016, irrespective on their validity.

The functioning of DAC3 exchanges is summarised in Exhibit 2.5 overleaf.

Exhibit 2.5 Functioning of DAC3 Exchanges

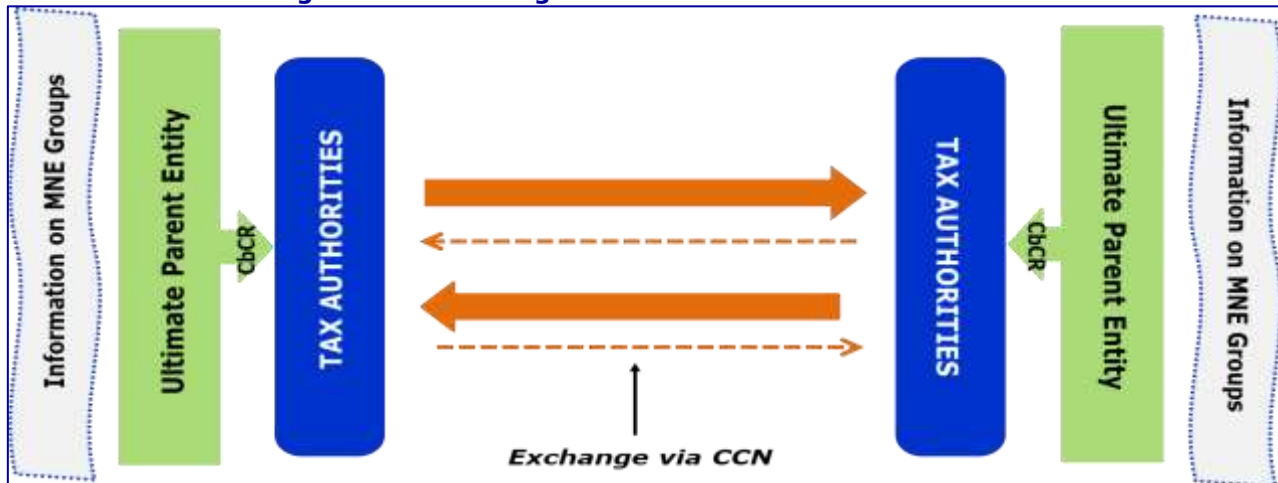
DAC4 AEOI Provisions. The **AEOI concerning multinational enterprises** is covered by Article 8aa, with further details provided in Annex III. The information to be exchanged concerns companies or groups thereof with a consolidated turnover exceeding € 750 million⁴⁴ and is to be structured in accordance with the CbCR format. The CbCR model template is illustrated in Section III of Annex III of DAC4 and takes into account the standards and relative developments adopted by the OECD in the framework of BEPS Action 13. The CbCR must include key financial data (revenue, profit/loss before tax, taxes paid and accrued, tangible assets) as well as the number of employees and information on the group structure.

As in the case of DAC2, the collection of the relevant information is entrusted to of private parties. Indeed, **responsibility for preparing the CbCR and filing it with the tax authority of the jurisdiction in which its tax residency is established lies with the MNE**, and in particular with the Ultimate Parent Entity of an MNE Group or its Surrogate Parent Entity when appointed.⁴⁵ Member States are required to adopt all the necessary measures to ensure that the reporting obligations of the MNE Group are accomplished within 12 months from the last day of the relative Reporting Fiscal Year. The tax authority receiving the CbCR automatically sends the acquired information to tax authorities of other Member States where one or more Constituent Entities of the MNE Group have their tax residency or are subject to tax in relation to a business carried out through a permanent establishment. The first exchanges between tax authorities, which concerned the tax year commencing on or after 1 January 2016, had to be performed within 18 months after the end of the fiscal year. (30.06.2018). After the first year of exchanges, DAC4 exchanges between tax authorities need to occur within **15 months after the end of the fiscal year of** the MNE Group.

The functioning of DAC4 exchanges is summarised in Exhibit 2.6 overleaf. As exchanges of DAC4 began in mid-2017, no analysis is made of them.

⁴⁴ The definition of 'MNE Group' as well as of 'Excluded MNE Group', i.e. those entities not subject to reporting is provided in Section I of Annex III of DAC4.

⁴⁵ Under certain conditions described in Section II point I of Annex III of DAC4, a Constituent Entity shall be responsible for filling the CbCR.

Exhibit 2.6 Functioning of DAC4 Exchanges**2.5.2 Provisions on EOI other than AEOI**

The provisions concerning framework for the more traditional forms of EOI build upon those envisaged by the MAD, but with some innovations:

- The **EOIR** is regulated by Articles 5-7 and 17-18. When the tax authority of a Member State needs foreseeably relevant information regarding taxpayers or transactions which could be accessible in another Member State, it can send a request for information to the relative tax authorities. As already envisaged by the MAD, the requests for information may concern data already available to the requested authority or obtained following administrative enquiries. Nevertheless, DAC emphasised the need for enhanced efficiency of ACDT e.g. by urging Member States to provide timely replies. Indeed, the requested Member State shall reply to a request for information **within two months** following the date of receipt of the request if the information is already available to the tax authority, whereas it shall reply **no later than six months** if the information needs to be retrieved, unless agreed otherwise. The requested information shall be disclosed by the requested authority, provided that the **requesting tax authority has exhausted all its usual national sources of information and that the requested information is of foreseeable relevance**⁴⁶ to the administration and enforcement of its national law. On the other hand, and in alignment with the international standards developed by the OECD⁴⁷, in no case can a requested authority refuse to reply to a request for information solely because it has no domestic interest in collecting the requested information, or because the information is held by a bank or other financial institution.
- The **SEOI**, covered by Articles 9–10, concerns the unsolicited communication of information of foreseeable relevance to another Member State. The SEOI is **mandatory** within one month after the information becomes available whenever it has to do with a **potential loss of, or an increase in, tax liabilities** in the other country, as specified under Article 9(1), while it is of **voluntary** nature in all other cases.

The provisions regulating EOIR and SEOI contain a reference to the **acknowledgement of receipt** of the request or the information received via these two channels. Specifically, Art. 7(3) for EOIR and Art. 10(2) for SEOI require the Member State which receives the request or the information to notify their receipt to the Member State which has sent it, within seven working days.

⁴⁶ Recital 9 of DAC1 specifies that “the standard of ‘foreseeable relevance’ is intended to provide for exchange of information in tax matters to the widest possible extent and, at the same time, to clarify that Member States are not at liberty to engage in ‘fishing expeditions’ or to request information that is unlikely to be relevant to the tax affairs of a given taxpayer”, at p. 2.

⁴⁷ Reference is made specifically to Article 26 § 4 and 5 of the OECD Model Tax Convention. Cf. above note 19.

2.5.3 OFACDT

As previously mentioned, the DAC also foresees other forms of administrative cooperation, expanding or reinforcing similar provisions included in previous legislation. In more detail:

- The **Presence in Administrative Offices and Participation in administrative enquires** (PAOE) is envisaged by Article 11 and enables, by virtue of agreement between the requesting and the requested authorities, the presence of the requesting Member State's officials (i) in the offices of the administrative authority of the other Member State, and (ii) during administrative enquires carried out in its territory. Moreover, (iii) if permitted under the national legislation of the hosting Member State, the hosted officials may also examine records and interview individuals.
- Under Article 12, two or more Member States can carry out **Simultaneous Controls** (SC) in their own territory on one or more taxpayers of common or complementary interest. Each Member State can initiate a SC by identifying the concerned persons and communicating their identities to the other Member State, together with the reasons for the proposed controls and their timing. The requested Member State(s) have the option of agreeing to the SC or may decline participation through a reasoned refusal.
- The Directive includes the possibility for a Member State to request another Member State's **assistance in the notification of taxpayers** regarding instruments and tax decisions, as envisaged by Article 13.
- Further, Article 14 foresees **the provision of feedbacks to the sending Member State on the information received**, where for AEOI this is a mandatory annual exercise.

Finally, **DAC5** provisions, as per Art. 5, requires Member States to adopt legal acts in order to grant **tax authorities access to selected information held by financial institutions**, such as data on due diligence of customers, details on beneficial ownership and other information collected under AML legislations. The possibility to access such information was to be granted as soon as possible, and no later than 1 January 2018 (i.e. the date of entry into force of DAC5). As DAC5 started to apply only then, this study does not analyse its implementation.

2.5.4 General Provisions on institutional arrangements and reporting

According to Recital 8 of DAC1, the provisions introduced by the Directive shall stimulate more direct contacts between Member States' offices in charge of administrative cooperation, with the aim of making cooperation "more efficient and faster".⁴⁸ Toward this aim, besides the provisions described so far concerning specific tools and instruments, the Directive also comprises a set of horizontal provisions aimed at improving the organisation and functioning of administrative cooperation as a whole. Requirements concerning the **institutional arrangement** to be adopted by Member States are covered by Article 4(1) to 4(5). Member States' tax authorities are required to appoint a **Central Liaison Office** (CLO), and have the option to appoint Liaison Departments and/or Competent Officials to carry out administrative cooperation actions. The Commission is to be informed on institutional arrangement that has been set up. Furthermore, the Directive also underlines the importance of **sharing of best practices and experiences** (Article 15), as well as of the coordination between organisational structures both internally and through direct cooperation with other Member States' authorities in order to ensure the smooth functioning of administrative cooperation arrangements.

Finally, in Articles 8b and 23, the Directive also includes a set of reporting obligations which allow monitoring of the functioning of administrative cooperation. On the one hand, Member States have to provide, on an annual basis, (i) **statistics on the volume of automatic**

⁴⁸ DAC1, at p. 2.

exchanges; (ii) information on the costs and benefits relating to AEOI and (iii) the **annual compilation and submission of the Yearly Assessment of AEOI and a list of statistical data** (the latter relates to all the types of EOI foreseen by the Directive), as well as any other relevant information for the purpose of evaluating the effectiveness of DAC provisions. The forms and conditions for the exchanges and the reporting obligations (particularly the Yearly Assessments questionnaires and the statistical data) are addressed in a set of **Implementing Regulations**, adopted by the Commission between 2012 and 2018.⁴⁹

2.5.5 Supporting groups at the European level

Implementation of ACDT provisions is facilitated by various Working and Expert Groups operating at the European level. The Committee on Administrative Cooperation for Taxation (CACT) Small Working Group, active between 2011 and 2012, and its successor, the CACT Working Group, were set up in order to organise and assist the development and implementation of the DAC1 AEOI Scheme, as well as to adopt the Implementing Regulations of the DAC. They are comprised of both representatives of and experts from Member States. In addition, the **Working Group on Administrative Cooperation in the field of Direct Taxation** (commonly known as 'WG ACDT') is comprised of Member States' representatives (ministries of finance and/or tax agencies) and was originally set up in 2005 in the context of the MAD. The WG ACDT also includes: (i) a **sub-group dealing with specific matters on AEOI, the Sub-Group on the Automatic Exchange of Information (SG AEOI)**; and (ii) **two 'small' sub-groups dealing with Information Technology (IT) matters**, i.e. Small Sub-Group on 'International Communication Channels & Security' and the Small Sub-Group on 'Electronics form for Direct Taxes' (SSG eFDT). These Working Groups are still active as fora for discussing the ongoing ACDT activities, as well as for sharing best practices and experiences. To support the implementation of DAC2, the Commission also established an **Expert Group on Automatic Exchange of Financial Account Information (AEFI)**, which mobilises representatives from the business community and civil society. Set up in 2014, the AEFI was discontinued in mid-2017.⁵⁰ Finally, several **Fiscalis Project Groups** provided technical assistance in the building process of the IT arrangements, tools and actions necessary for the operational implementation of DAC provisions.

2.6 The intervention logic of the Directive

The Intervention Logic of the Directive is described in detail below. The starting point of the exercise is the identification of the needs addressed and the related objectives, followed by the analysis of the causal chain linking resources, activities and their immediate results. This is complemented by a review of the external factors that may influence the implementation of the Directive and its performance. The Intervention Logic is presented in the form of a diagram in Exhibit 2.7 at the end of the section.

Needs Addressed. The Directive is intended to address three closely interrelated but conceptually different needs. The first need relates to the **mismatch between the growing globalisation of economic activities, both at international and EU levels, and the inherently national character of taxation** which creates an opportunity for tax evasion or

⁴⁹ The first Implementing Regulation (EU 1156/2012) laid down detailed rules for implementing Council Directive 2011/16/EU, including various provisions on the standard forms and means of communication that Member States will use when exchanging information. This Regulation was amended and replaced by, respectively, Commission Implementing Regulations (EU) 1353/2014 and (EU) 2015/2378, which addressed the computerised format to be used for the mandatory automatic exchange of information on the five categories of income and capital and on financial accounts as well as with the standard forms for spontaneous exchanges and on request, notifications and feedback. The 2015 implementing act consolidated the previous regulations, which are no longer in force. The consolidated version was eventually amended by Implementing Regulation (EU) 2016/1963 (describing standard forms and linguistic arrangements for the AEOI of ATR/APA and linguistic arrangements for the AEOI of CbCR) and by Implementing Regulation (EU) 2018/99, which details the forms and conditions for the communication of the Yearly Assessments and the list of statistical data for the purposes of evaluating Council Directive 2011/16/EU.

⁵⁰ AEFI appears to have been a follow up of the Expert Group on the taxation of savings intended to support the implementation of the EUSD, which was established in 2007 and discontinued in 2013.

tax avoidance. Indeed, as noted in the original proposal for the Directive, “[t]here is a tremendous development of the mobility of taxpayers, of the number of cross-border transactions and of the internationalisation of financial instruments, which makes it more and more difficult for Member States to assess taxes due properly, while they stick to national sovereignty as regards the level of taxes.”⁵¹ The second issue addressed refers to the **limited transparency in tax decisions with a cross-border element**, namely the advanced tax rulings and pricing agreements, which “facilitates the application [of] harmful tax practices [and provides] an incentive for enterprises to apply aggressive tax planning.”⁵² In turn, this may affect financial flows and business location decisions, and it may also impact on the level playing field for businesses, as smaller firms have fewer opportunities to engage in aggressive tax planning compared with multinational enterprises. Finally, the third challenge addressed by the Directive relates to the issues that may result from **differences in the implementation of commitments to tax cooperation and transparency made by some Member States at the OECD/G20 level**. Establishing a set of uniform and common rules is indeed instrumental in making sure that Member States’ authorities can trust each other’s mechanisms.⁵³ The point was initially made in connection with the entry into force of FATCA-related agreements, as “[t]he level playing field between the Member States might be put at risk if Member States agreed to cooperate on increased AEOI in different ways.”⁵⁴ The challenge was again discussed in connection with the adoption of DAC4, as it was considered that the “unilateral implementation of BEPS would risk national policy clashes and new obstacles in the Internal Market, which would continue to be fragmented in 28 constituent parts and suffer from mismatches and other distortions.”⁵⁵

General Objectives. Based on the above considerations, the Directive is interpreted to pursue **three general objectives**, namely: (i) contribute to the proper functioning of the internal market; (ii) contribute to safeguarding Member States’ tax revenues; and (iii) contribute to improving the perceived fairness of the tax system. The **internal market-related objective** directly derives from the Directive’s legal basis – Article 115 TFEU – and from the explicit references to the ‘proper functioning of the internal market’ included in the recitals to the initial text and all the subsequent amendments. Similar considerations apply to the **tax revenue protection objective**, as the need to combat tax fraud, evasion and avoidance also figures prominently in the legal texts and constitutes the very *raison d’être* of any form of ACDT.⁵⁶ The **fairness in taxation objective** may appear somewhat unusual, due to its obvious political nature. However, the emphasis is on addressing the social and political implications of cross-border tax fraud, evasion and avoidance, which are frequently mentioned both in Commission

⁵¹Proposal for a Council Directive on administrative cooperation in the field of taxation, COM(2009)29, 2.2.2009 (hereinafter, the ‘DAC1 Proposal’), p. 2. The point is made also in other proposals for amendments to DAC1. For instance, in the Proposal for a Council Directive amending Directive 2011/16/EU as regards mandatory automatic exchange of information in the field of taxation, COM(2015) 135, 18.3.2015 (hereinafter, the ‘DAC3 Proposal’), at p.2: “Tax avoidance, as well as tax fraud and tax evasion, have an important cross-border dimension. Globalisation and the increasing mobility of taxpayers can make it difficult for Member States to assess tax bases properly”.

⁵² Commission Staff Working Document, Technical analysis of focus and scope of the legal proposal Accompanying the document Proposal for a Council Directive amending Directive 2011/16/EU as regards exchange of information in the field of taxation, SWD(2015) 60, 18.3.2015, at p. 15.

⁵³ See Recital 2 of the Directive.

⁵⁴Proposal for a Council Directive amending Directive 2011/16/EU as regards mandatory automatic exchange of information in the field of taxation, COM(2017) 335, 12.6.2013 (hereinafter, the ‘DAC2 Proposal’), p. 4.

⁵⁵Proposal for a Council Directive amending Directive 2011/16/EU as regards mandatory automatic exchange of information in the field of taxation, COM(2016) 25, 28.1.2016 (hereinafter, the ‘DAC4 Proposal’), p. 3.

⁵⁶ There are, however, some semantic variations. In the original text of the Directive, tax evasion and tax fraud are sometimes seen as posing problems primarily from an internal market perspective, as the “increasing difficulty [experienced by Member States] to assess taxes due properly [...] incites tax fraud and tax evasion [...] [and] thus jeopardises the functioning of the internal market.” (preamble, (1)). In contrast, when adopting DAC2, the Council focused on the need “to increase [...] the efficiency and effectiveness of tax collection”, without any mention of the internal market (Council of the European Union, Preventing tax evasion and fraud: the scope for automatic exchange of information is extended, Press Release, 9 December 2014). The fact that the Council, i.e. the body made up of representatives of Member States that retain competence for direct taxation, explicitly focused on the improvement of tax collection definitely confirms that revenue protection is to be regarded as an objective in its own right, not subordinated to the internal market objective.

documents⁵⁷ and statements from the Council.⁵⁸ Indeed, fairness should not be intended as a judgment on the existing national taxation systems (e.g. on the level of redistribution pursued). Rather, it relates to the perception that taxpayers operating across multiple Member States – both multinational enterprises and individuals – should not enjoy an unfair tax advantage because of the limited communication between tax authorities and benefit from any preferential treatments. At the same time, both taxpayers and tax authorities can benefit, in terms of fairness, if taxes are paid in the correct amount and to the correct country right from the start, so that no later adjustments are needed. This definitely justifies the inclusion of fairness in taxation as a general objective ‘at par’ with the improved functioning of the internal market and the protection of tax revenues.

Specific Objectives. These general objectives translate into *three specific objectives*, which are defined as the following: (i) an *increased ability to fight cross-border tax fraud, evasion and avoidance*, the latter particularly linked to forms of aggressive tax planning by multinational enterprises and other large taxpayers; (ii) *reduced scope for harmful tax competition*, namely through greater transparency in tax rules; and (iii) *enhanced spontaneous tax compliance in a timely manner*, through the ‘deterrent effect’ resulting from the greater ability to detect cross-border incomes and assets. These three specific objectives correspond to the expected outcomes⁵⁹ of the Directive and constitute the key ‘benchmarks’ against which the performance of the Directive must be assessed.

Resources.⁶⁰ The resources deployed in complying with the Directive fall under three headings. The first heading refers to the *resources deployed at the EU level*, which include: (i) the expertise and human resources in DG TAXUD services for the preparation of legislative initiatives and the monitoring of implementation; (ii) the financial resources deployed for the development of ACDT-related tools, mostly provided by the Fiscalis 2020 programme⁶¹; and (iii) the financial resources for the preparation and/or implementation of selected ACDT actions, also provided by Fiscalis 2020. The second heading encompasses the *resources mobilised by the Member States*, consisting of the expertise, human resources and material means deployed by tax authorities for: (i) the development of related national legislation and regulations; (ii) the setting up and operation of the ACDT infrastructure, including IT systems; (iii) the actual implementation of various provisions (e.g. the resources for the carrying out of enquiries under EOIR); and (iv) the reporting to the Commission on implementation. The third heading includes the *resources deployed by private sector operators* directly affected by national legislation transposing the Directive. These include primarily: (i) the costs incurred by financial institutions for the collection, treatment and transmission of information under DAC2; and (ii) the costs incurred by multinational enterprises for the provision of information in accordance with the CbCR format under DAC4.

⁵⁷ The theme of fairness in taxation figured prominently already in the DAC2 Proposal, where it was noted that “stepping up the fight against tax fraud and evasion is not only an issue of revenue, but also of fairness. Particularly in these difficult economic times, honest taxpayers should not suffer additional tax increases to compensate for revenue losses incurred due to tax fraudsters and evaders” (page 2). Fairness considerations were a key feature of the 2015 Tax Transparency Package. Cf. (Communication from the Commission to the European Parliament and the Council on tax transparency to fight tax evasion and avoidance, COM(2015)136, 18.3.2015. The point was forcefully reiterated in the recent 2017 Implementation Report, where it is stated that “the Commission believes ... that administrative cooperation contributes, and is seen to contribute, to the overall objective of a fair taxation for all.” (p.5).

⁵⁸ In particular, the political implications of strengthened ACDT were highlighted by the Council in the meeting that paved the way to the adoption of DAC2 (European Council, Conclusions, 22 May 2013). On that occasion it was noted that “[i]n times of tight budgetary constraints, combatting tax fraud and tax evasion is more than an issue of tax fairness - it becomes essential for the political and social acceptability of fiscal consolidation” (at p. 1).

⁵⁹ Results in the BRG jargon.

⁶⁰ Inputs in the BRG jargon

⁶¹ Regulation (EU) No 1286/2013 of the European Parliament and of the Council establishing an action programme to improve the operation of taxation systems in the European Union for the period 2014-2020 (Fiscalis 2020) and repealing Decision No 1482/2007/EC, 20.12.2013.

Activities. As in the case of other legislative initiatives, '**activities**' largely correspond to the provisions of the Directive.⁶² These provisions can be grouped under six main headings, namely:

- the **general provisions on ACDT**, dealing with **institutional aspects and other horizontal matters**. These activities are spelled out in Articles 1 through 4 and Articles 16 through 31;
- the provisions (Article 8) focusing on DAC1 and DAC2 AEOI, i.e. concerning the **exchange of information on certain types of incomes, assets and taxpayers**;
- the provisions (Article 8aa) dealing with DAC4 AEOI, i.e. regarding the **exchange of information on multinational enterprises' financials**;
- the provisions (Article 8a) dealing with the **exchange of information on certain tax rulings**, namely the DAC3 AEOI of on APA/ATR;
- the provisions (Articles 5 through 7, 9 and 10) concerning the **non-automatic forms of information exchange**, i.e. EOIR and SEOI; and
- the provisions (Articles 11 through 15) dealing with **OFACDT**.

A further activity unrelated to legislative provisions but nonetheless relevant for the analysis refers to the **supporting actions financed by Fiscalis 2020**, namely the support to the central IT infrastructure, to the deployment of PAOEs and SCs, and to the organisation of meetings with experts of Member States, workshops and knowledge dissemination initiatives on ACDT-related themes.

Outputs. Outputs are the immediate results of the implementation of 'activities', and effectively provide **a measure of the status of implementation of the Directive**. Considering the nature of the activities described above, outputs can be grouped into three broad categories, namely:

- institutional outputs, related to the effective **establishment of an ACDT-related infrastructure**, both at the national level (e.g. competent authorities and CLO appointed and operational) and at the EU level (e.g. development of e-forms for EOI and the CCN);
- the **uptake of EOI activities**, broken down as needed by type of instrument and nature of information exchanged (e.g. information on incomes, assets and taxpayers, information on ATR/APA); and
- the **uptake of OFACDT**, again broken down by type of action (e.g. PAOE implemented, best practices shared).

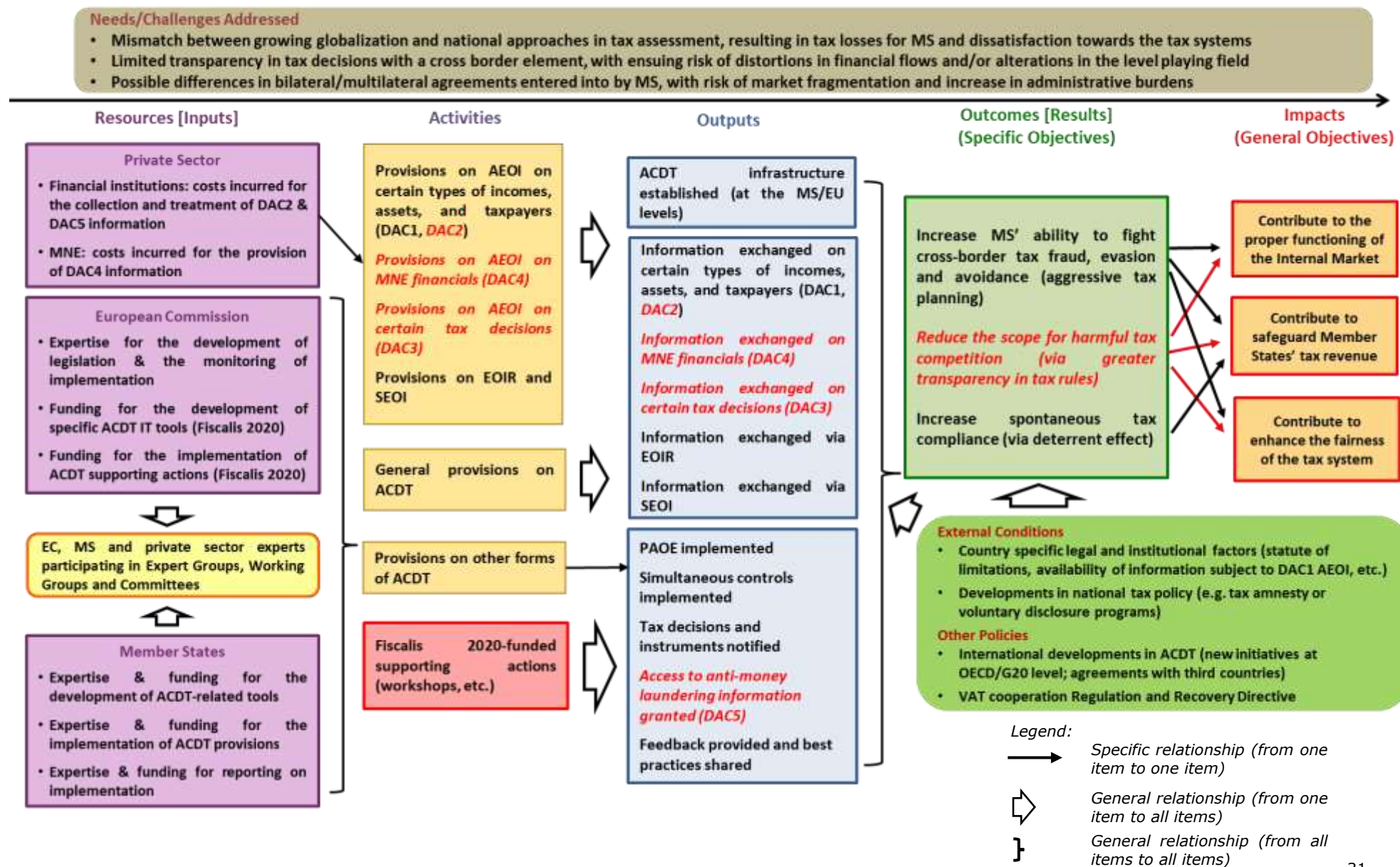
External Conditions. As in the case of any public intervention, the 'performance' of the Directive is influenced by certain external conditions. In the case under consideration, three external factors are of particular relevance, namely: (i) **ACDT-related developments at the international level**, including the launch of new initiatives at the OECD/G20 level and the signing by the EU of agreements extending the application of DAC provisions to European third countries, which may influence the implementation and/or the reach of the Directive's provisions; (ii) certain features of **national legislation and regulations**, which may affect the implementation and the performance of certain parts of the Directive (e.g. the availability of the data to be exchanged under DAC1, the statute of limitations, the requirements to notify taxpayers of requests for information); and (iii) **tax policy developments at the country level**, such as the existence of tax amnesties or voluntary disclosure programmes focusing on assets held abroad, which, depending upon the specific circumstances, may reinforce or reduce the effectiveness of ACDT.⁶³

Summing Up. The above elements are summarised in the diagram in Exhibit 2.7. Two points are worth noting. First, **the diagram depicts the intervention logic of the Directive in its current form**, namely as of 01 January 2018 (i.e. entry into force of DAC5). To account for the changes that have occurred over time, the elements of the intervention logic linked to the various amendments are represented in red italics. Second, for legibility purposes, **only the main causal linkages are depicted with arrows**.

⁶² This point is highlighted in the BRT, where it is stated that "For the evaluation of legislative actions, many of the required actions are identified in the articles of the legal act" (page 335).

⁶³ More details on this topic will be provided in section 6.4.3 of the Report.

Exhibit 2.7 Intervention Logic Diagram



The elements of the IL referring to Directive amendments are in red italics.

3 TRANSPOSITION AND PREPARATION FOR IMPLEMENTATION

3.1 Introduction

This Section provides an overview of the **transposition of the DAC provisions into the national legislation**, as well as a succinct presentation of the **preparatory steps for their implementation**. The analysis of transposition largely relies on the information contained in the EUR-LEX database,⁶⁴ supplemented with national sources when needed. The information on the correctness and timeliness of the transposition was retrieved from the Commission reports monitoring the application of EU law⁶⁵ ('Monitoring Reports'), as well as from the database of infringement decisions ('Infringements Database')⁶⁶ and press releases on various infringement cases, the so called 'Infringements Packages'. Information on the preparatory work for implementation was retrieved from various documents as well as from interviews with selected stakeholders.

In this Section, the original DAC Provisions and each subsequent amendment are reviewed separately. Section 3.2 analyses the transposition and implementation of the provisions contained in the original Directive ('DAC1 Provisions'); Sections 3.3, 3.4, 3.5, and 3.6 do the same with, respectively, DAC2, DAC3, DAC4 and DAC5. Some concluding comments are provided in Section 3.7. The details on the national measures transposing the DAC provisions are provided in Annex E.

3.2 Transposition and Preparation for Implementation of DAC1 Provisions

Transposition. According to Article 29, the 'original' Directive was to be transposed by **31 December 2012**.⁶⁷ However, a different deadline was set for the AEOI provisions encompassed in Article 8 (**AEOI**), which **were to be transposed by 31 December 2014**. The transposition involved the adoption at the national level of various pieces of legislation, sometimes accompanied by subordinated acts (e.g. decrees or equivalent) dealing with specific aspects (e.g. regarding the types of incomes/assets subject to AEOI).

Since the original DAC actually had two different deadlines, the transposition and implementation of the DAC1 Provisions will be treated separately for 'DAC1 Provisions' (excluding AEOI Provisions) and 'DAC1 AEOI Provisions'.

3.2.1 DAC1 Provisions (excluding AEOI)

Almost half of the Member States were late in transposing the original provisions of the Directive or did not immediately notify the Commission. Indeed, 12 Member States⁶⁸ were invited by the Commission to comply by means of letters of formal notice on the basis of Article 258 TFEU, starting from January 2013. However, only in seven cases⁶⁹ did the infringement procedure continue and the Commission sent Reasoned Opinions asking the Member States to notify on the transposition of the DAC. All infringement procedures on the transposition of the DAC1 provisions other than AEOI were subsequently closed, with the last one being closed in September 2014.

⁶⁴ <https://eur-lex.europa.eu/homepage.html>

⁶⁵ EC, Monitoring the application of EU law in EU policy areas – Annual Report 2016, July 2017 (hereinafter 'Monitoring Report 2016') and EC, Monitoring the application of EU law in EU policy areas – Annual Report 2017 July 2018 (hereinafter 'Monitoring Report 2017').

⁶⁶ http://ec.europa.eu/atwork/applying-eu-law/infringements-proceedings/infringement_decisions/?lang_code=en

⁶⁷ A six-month extension was granted to Croatia owing to its recent accession to the EU.

⁶⁸ Belgium, Czech Republic, Greece, Finland, France, Hungary, Italy, Luxembourg, Latvia, Poland, Portugal and Slovenia.

⁶⁹ Namely for Belgium, Greece, Finland, France, Italy, Latvia and Poland.

The status of transposition of DAC1 provisions (excluding AEOI) is shown in Exhibit 3.1.

Exhibit 3.1 Status of Transposition of DAC1 Provisions (excluding AEOI)

AT	BE	BG	CY	CZ	DE	DK	EE	EL	ES	FI	FR	HR	HU
✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓
IE	IT	LT	LU	LV	MT	NL	PL	PT	RO	SE	SI	SK	UK
✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓

Notes: ✓= transposed and notified in timely manner; ✓= transposed/notified after opening of infringement procedure. Situation as of 28 January 2019. Source: own elaborations based on EUR-Lex, Infringements' Database and other documents.

Preparation for implementation. Most of the tools and mechanisms other than AEOI were already included in the pre-existing legislation. Therefore, the preparatory work mostly focused on the technical adjustments needed to implement the new requirements. The discussion on the **electronic forms and communication channels** to be used for all the exchanges envisaged by the DAC had already taken place during the first years of implementation of DAC1.⁷⁰ Much of the dialogue focused on the **development of the dedicated EOI application and its forms**, the electronic Forms in Direct Taxation (eFDT),⁷¹ supported by the Fiscalis 2013 programme.⁷² In general, it should be noted that little information on the preparation activities is available, as most preparatory work was devoted to the IT arrangements for DAC1 AEOI (see below).

3.2.2 AEOI Provisions

In contrast to what happened for the first transposition deadline set by the DAC, **the vast majority of Member States did comply with the deadline for the transposition of AEOI Provisions**. Indeed, only four Member States⁷³ did not adopt the relevant measures on time and/or notify the Commission. In January 2015, these four countries were invited by the Commission to comply by means letters of formal notice, which led to the closure of the procedures in 2015-2016. The status of the transposition of DAC1 AEOI provisions is summarised in Exhibit 3.2 below.

In February 2016, the Commission sent a letter of **formal notice to Estonia for the incomplete transposition of the Directive**, as it was only transposed "through a general provision broadly referring to the application of EU law in the relevant matters."⁷⁴ It is not clear whether the infringement refers to the Directive 'in general' or to the AEOI-related provisions, although judging by the timing, the latter appears to be the case.⁷⁵ The infringement case was closed in mid-July 2018.

Exhibit 3.2 Status of Transposition of DAC1 AEOI Provisions

AT	BE	BG	CY	CZ	DE	DK	EE	EL	ES	FI	FR	HR	HU
✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓
IE	IT	LT	LU	LV	MT	NL	PL	PT	RO	SE	SI	SK	UK
✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓

Notes: ✓= transposed and notified in timely manner; ✓= transposed/notified after opening of infringement procedure. Situation as of 28 January 2019.

Source: own elaborations based on EUR-Lex, Infringements' Database and other documents.

⁷⁰ See, for example, WG ACDT - 28th meeting of 20-21 January 2014 and the 29th meeting of 10-11 April 2014, even if meeting reports do not provide any detail.

⁷¹ A new platform, the eForm Central Application (eFCA), is currently under development and will serve, among others, to automatically collect and monitor statistics on EOIR and SEOI and the relative time limits. The new platform will cover ACDT as well as cooperation regarding VAT and recovery of taxes. See WG ACDT, SSG eFDT, 10th meeting - 22-23 November 2016; WG ACDT, SSG eFDT - 11th meeting- 19 October 2017 and WG ACDT 43rd meeting - 27 September 2018, Minutes of the meeting, 4 October 2018.

⁷² See Section 7.5 below.

⁷³ Germany, Poland, Portugal and Slovakia.

⁷⁴ Monitoring Report 2016, at p.82.

⁷⁵ Information on infringement procedures is deemed to be confidential and the texts of letters of formal notice and reasoned opinions are not accessible to the public.

Preparation for implementation. The implementation of the AEOI obligations focused mainly on IT-related aspects, namely the infrastructure and the formats for the exchange of data. The format was developed by the Commission and the Member States building upon the model developed for the AEOI under the EUSD. Nevertheless, the scope and procedures of DAC1 **implied the development of a system for the exchange of information that was entirely different from what was previously used in the panorama of double taxation treaties.**

The system development **process was managed by DG TAXUD** in close collaboration with the Member States. It involved planning activities, ranging from the collection of data elements to the design of the XML Schema, as well as the setting-up of the technical and functional specifications, and ended with the testing and rolling out of the AEOI system. Member States **were asked to participate in the process and set up or adjust their own IT systems accordingly** within the planned deadlines. This process concerned, to varying degrees, all Member States, with the exception of the Netherlands, which already had an infrastructure for the AEOI in place within the framework of bilateral exchange agreements with various countries.⁷⁶

The exchanges began in 2015 and concerned information related to the 2014 tax year.

3.3 Transposition and Implementation of DAC2 Provisions

Transposition. According to Article 2 of DAC2, **the provisions concerning the exchange of financial information were to be transposed by 31 December 2015.** Depending on national specificities, the transposition into national law involved the use of different legal instruments, laws and/or decrees. In several countries (e.g. the United Kingdom, the Netherlands, Italy, Malta), the same legal instrument also covered the introduction of the automatic exchanges with non-EU countries under the framework of the OECD agreements.

For DAC2 provisions, the transposition process was less smooth than for DAC1: only 15 Member States adopted the necessary measures within the specified deadline and/or notified the Commission accordingly. In 2016, the Commission opened the infringement procedures for late transposition/notification by issuing letters of formal notice to 13 Member States.⁷⁷ With only one exception, these infringement cases were resolved without further action between 2017 and the first half of 2018. The only exception was Poland, which in September 2016 received from the Commission a reasoned opinion on the basis of Article 258 TFEU.⁷⁸ However, this procedure was also closed without further action in May 2018.

A new infringement procedure for incorrect transposition was opened in June 2018, when the Commission sent a letter of formal notice to the Czech Republic “for failing to implement correctly EU rules on mandatory automatic exchange of information in the field of taxation”.⁷⁹ No detailed information on the specific motivations for the letter is available. At the time of writing, based on the information presented in the Infringements’ Database, the procedure is open. The transposition of DAC2 provisions is summarised in Exhibit 3.3 below.

Exhibit 3.3 Status of Transposition of DAC2 Provisions

AT	BE	BG	CY	CZ	DE	DK	EE	EL	ES	FI	FR	HR	HU
✓	✓	✓	✓	✗	✓	✓	✓	✓	✓	✓	✓	✓	✓
IE	IT	LT	LU	LV	MT	NL	PL	PT	RO	SE	SI	SK	UK
✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓

Notes: ✓ = transposed and notified in timely manner; ✓ = transposed/notified after opening of infringement procedure; ✗ = partly transposed, ongoing infringement procedure. Situation as of 28 January 2019.

Source: own elaborations based on EUR-Lex, Infringements’ Database and other documents.

⁷⁶ Cf. YA 2015 and 2016.

⁷⁷ Belgium, Cyprus, the Czech Republic, Estonia, Greece, France, Croatia, Hungary, Latvia, Malta, Poland, Portugal, and Slovakia.

⁷⁸ EC, Fact Sheet - September infringements’ package: key decisions, 29 September 2016.

⁷⁹ EC, Fact Sheet - June infringements’ package: key decisions, 7 June 2018, p.5.

Preparation for Implementation. The operationalisation of DAC2 provisions required considerable preparatory work from all the parties involved. These efforts largely coincided with the preparation for multilateral exchanges of financial information under the OECD agreements, and also partly overlapped with the launch phase of the financial information exchanges under FATCA.

At the **Member States level**, the tax authorities had to issue the operational instructions applicable to the financial institutions that were requested to provide the information to be exchanged, and to communicate to the Commission the cases that were to be excluded from DAC2 reporting (see Box 3.1 below). This generally involved extensive consultations with the financial sector, which actively participated in the process. In some countries, the consultation process also involved other public entities, such as the institutions responsible for personal data protection.⁸⁰ The operational instructions issued to the financial institutions required them to develop and put in place the relevant IT systems and procedures for: (i) the identification of the 'Reportable Accounts' and 'Reportable Persons', (ii) the performance of due diligence, and (ii) the transmission of information to tax authorities. The Member States authorities also had to implement new IT solutions for the exchange of information.

Box 3.1 Communication of Situations Excluded from DAC2 Provisions

As a complement to the transposition process proper, Member States were required to identify **the entities and types of accounts that were to be excluded from the application of DAC2 provisions**, the so-called 'Non-Reporting Financial Institutions' and 'Excluded Accounts'. These entities and accounts had to be communicated to the Commission prior to 31 July 2015 for subsequent publication. Based on the available information, the Member States complied with this requirement and the lists were published in the Official Journal in October 2015.⁸¹ An updated list of 'Excluded Accounts' was published at the end of 2016.⁸²

At the **EU level**, the **operational aspects were discussed extensively** in various expert and working groups, in particular the AEFI, which provided advice and recommendations on a number of topics, ranging from the timeline for implementation to IT issues and formats for reporting.⁸³ DAC2-related matters were also discussed at various meetings of the WG ACDT, with more technical aspects being reviewed in the context of the SG AEOI. The Commission services also actively interacted with the OECD, mainly to promote possible adaptations of the CRS format to correlate with the reporting requirements under DAC2. Finally, support to the Member States on IT technical issues was provided via the Fiscalis 2020 programme, which financed the so-called 'Fiscalis Expert Team'.⁸⁴

The first batch of DAC2 exchanges was expected to be completed by 30 September 2017, with Austria being granted a one-year extension (which, however, was not used). In late spring/early summer of 2017, problems emerged with validation rules/modules.⁸⁵ This entailed some delays in the submission of the information by financial institutions to the tax authorities, and, in turn, in the exchange of information between Member States. Nonetheless, **most**

⁸⁰ This was the case, for instance, in Italy and France, where data protection authorities (*Garante per la protezione dei dati personali* and the *Commission Nationale de l'Informatique et des Libertés*) were asked to validate the procedures defined by tax authorities and/or to provide specific instructions on selected aspects. In other countries, such as Austria, the issue was addressed directly in the relevant legislation.

⁸¹ Official Journal of the European Union, 31 October 2015.

⁸² Official Journal of the European Union, 23 December 2016.

⁸³ EC, First Report of the Commission AEFI on the implementation of Directive 2014/107/EU for automatic exchange of financial account information, March 2015. The publications of second report was initially envisaged but eventually deemed not necessary by the Commission.

⁸⁴ Cf. Section 7.5 below.

⁸⁵ On this point, see for example the notice issued by Irish tax authorities <https://www.revenue.ie/en/news/articles/automatic-exchange-of-information-important-notice-regarding-dac2crs-filing-dates.aspx>.

Member States were able to start the exchange in September 2017, with additional information submitted in the following months.

3.4 Transposition and Preparation for Implementation of DAC3 Provisions

Transposition. According to Article 2 of DAC3, **the provisions concerning the exchange of information on ATR/APA were to be transposed by 31 December 2016**. This coincided with the deadline set at the OECD level for the exchange of information under BEPS Action 5 on harmful tax competition.

The transposition process took longer than envisaged, but it was eventually completed, with no outstanding issues. About two-thirds of the Member States adopted the necessary measures in a timely manner and notified the Commission accordingly, whereas nine countries did not. In 2017, the Commission opened infringement procedures for late transposition/notification by issuing letters of formal notice to eight Member States.⁸⁶ The infringement procedures with four of the Member States were closed already in 2017, whereas reasoned opinions were sent to Belgium, Bulgaria, Cyprus and Portugal for failing “to communicate the transposition of new measures on the automatic exchange of tax rulings between EU tax authorities”.⁸⁷ All of these infringement procedures were closed by 2018.⁸⁸ The status of transposition of DAC3 provisions is summarised in Exhibit 3.4 below.

Exhibit 3.4 Status of Transposition of DAC3 Provisions

AT	BE	BG	CY	CZ	DE	DK	EE	EL	ES	FI	FR	HR	HU
✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓
IE	IT	LT	LU	LV	MT	NL	PL	PT	RO	SE	SI	SK	UK
✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓

Notes: ✓ = transposed and notified in timely manner; ✓ = transposed/notified after opening of infringement procedure. Situation as of 28 January 2019.

Source: own elaborations based on EUR-Lex, Infringements' Database and other documents.

Preparation for Implementation. Most of the preparatory work for the implementation of DAC3 provisions was carried out at the **EU level**, as the Commission was responsible for the design of the Central Directory of cross-border ATR/APA and related tools. An initial discussion on the subject was conducted by the WG ACDT as early as November 2015, soon after the political agreement to proceed with the Commission proposal for DAC3 had been reached.⁸⁹ The prototype of the Central Directory was presented by the Commission in January 2016.⁹⁰ This was followed by further work on IT aspects, including the development of the forms for exchanging information. The first release of the system became available in April 2017, shortly before the initiation of exchanges (see below).⁹¹

Preparatory work at the **Member States level** involved the identification of the information to be exchanged and the preparation of summaries of ATR/APA to be uploaded in the Central Directory, and the adaptation of the IT systems. Based on the available information, Member States **started sharing information in mid-June 2017, but the bulk of the information was uploaded in the second half of 2017**.

3.5 Transposition and Preparation for Implementation of DAC4 Provisions

Transposition. According to Article 2 of DAC4, **provisions concerning the AEOI of CbCR were to be transposed by 4 June 2017**. Laws and regulations adopted by Member States for this purpose were mainly amendments modifying the national provisions dealing with administrative cooperation.

⁸⁶ Belgium, Bulgaria, Cyprus, the Czech Republic, Estonia, Greece, Hungary, Poland and Portugal.

⁸⁷ EC, Fact Sheet – July infringements' package – Part 1: key decisions, 13 July 2017, p.10; EC, Fact Sheet – December infringements' package: key decisions, 7 December 2017.

⁸⁸ EC, Fact Sheet – July infringements' package: key decisions, 19 July 2018.

⁸⁹ See EC, WG ACDT – 36th meeting - 17-18 November 2015 – Summary Report, 14 December 2015.

⁹⁰ See EC, 6th SSG eFDT – 14 January 2016 - Summary Report, 1 March 2016.

⁹¹ EC, SG AEOI - 19 May 2017 – Minutes of the meeting, 15 June 2017.

The transposition of the DAC4 Provisions has been accomplished within the deadline by most of the Member States. However, seven Member States⁹² received letters of formal notice from the Commission. In all but one case (i.e. Cyprus) the infringement procedures did not require reasoned opinions and were closed by mid-December 2017. The European Commission requested that Cyprus comply by means of a reasoned opinion. The relative infringement case was then closed in mid-2018.⁹³ The status of transposition of DAC4 Provisions is illustrated in Exhibit 3.5 below.

Exhibit 3.5 Status of Transposition of DAC4 Provisions

AT	BE	BG	CY	CZ	DE	DK	EE	EL	ES	FI	FR	HR	HU
✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓
IE	IT	LT	LU	LV	MT	NL	PL	PT	RO	SE	SI	SK	UK
✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓

Notes: ✓ = transposed and notified in timely manner; ✓ = transposed/notified after opening of infringement procedure. Situation as of 28 January 2019.

Source: own elaborations based on EUR-Lex, Infringements' Database and other documents.

Preparation for Implementation. The implementation of the provisions of AEOI on CbCR did not imply particular efforts for the Member States, as they were not in charge of the collecting and reporting obligations deriving from the DAC4 amendment and, on the operational side, they could rely on the Common Communication Network, which had been upgraded by the Commission. Matters dealing with the implementation of DAC4 were discussed during various Working Groups⁹⁴ and mainly concerned **IT-related matters like the drafting of the functional and technical specifications to implement the AEOI on CbCR,** which had been carried out by the SG AEOI and validated in collaboration with the Member States.

Due to the very recent start of the exchanges, data on the exchange of information under DAC4 AEOI are not yet available.

3.6 Transposition and Preparation for Implementation of DAC5 Provisions

Transposition. The measures granting **access for tax authorities to beneficial ownership information in accordance with DAC5 were to be transposed by 31 December 2017.**

Almost half of the Member States did not comply with the transposition deadline. Infringement procedures for late transposition and/or missing notification were opened by the Commission at the end of January 2018, with the sending of letters of formal notice to 11 Member States.⁹⁵ **Most cases were resolved without the sending of reasoned opinions,**⁹⁶ which however had to be done for five Member States. At the time of writing, **the infringement procedures against Ireland and Romania are still pending,** whereas the others have all been closed between mid-2018 and the beginning of 2019. The status of transposition of DAC5 measures is provided in Exhibit 3.6.

⁹² Belgium, Bulgaria, Cyprus, the Czech Republic, Greece, Portugal and the United Kingdom.

⁹³ EC, Fact Sheet – July infringements' package: key decisions, 19 July 2018.

⁹⁴ See WG ACDT – 38th meeting – 28-29 June 2016 – Summary Report, 11 July 2016 and WG ACDT, SG AEOI– 12th meeting – 1 December 2017, Minutes of the meeting, 16 January 2018.

⁹⁵ Belgium, Bulgaria, Cyprus, the Czech Republic, Denmark, Greece, Ireland, Italy, Luxembourg, Poland and Romania.

⁹⁶ EC, Fact Sheet – June infringements' package: key decisions, 7 June 2018; July infringements' package: key decisions, 19 July 2018; November infringements' package: key decisions, 8 November 2018; January infringements' package: key decisions, 24 January 2019.

Exhibit 3.6 Status of Transposition of DAC5 Provisions

AT	BE	BG	CY	CZ	DE	DK	EE	EL	ES	FI	FR	HR	HU
✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓
IE	IT	LT	LU	LV	MT	NL	PL	PT	RO	SE	SI	SK	UK
X	✓	✓	✓	✓	✓	✓	✓	✓	X	✓	✓	✓	✓

Notes: ✓ = transposed and notified in timely manner; ✓ = transposed/notified after opening of infringement procedure; X = partly transposed, ongoing infringement procedure. Situation as of 28 January 2019.

Source: own elaborations based on EUR-Lex, Infringements' Database and other documents.

Preparation for Implementation. As the Member States were only required to adapt their legislation in order to allow tax authorities to access information collected under AML legislations, there was no need for preparation activities other than the transposition itself. Consistently with this, DAC5 Provisions have been presented by the Commission to the Member States during various meetings of the WG ACDT, but there was no further discussion and thus very little information is readily available on the matter.⁹⁷

3.7 General Provisions

Internal Organisation. As discussed in Section 2.5.5, Member States had to adapt their internal organisation to the requirements of the DAC. **All Member States appointed a CLO** as mandated by the Directive. In 10 Member States the Central Liaison Office (CLO) is only in charge of ACDT, whereas in the majority of cases, it is **also responsible for administrative cooperation in other domains**, such as VAT, excises, or the Recovery Directive. In **13 Member States the CLOs act as coordination offices**, ensuring compliance with the Directive's provisions, but not handling the requests for information, whereas in **eight Member States they are organised as operational units** (e.g. preparing the replies to a request for information itself). Finally, **seven Member States opted for a hybrid arrangement**, in which the CLO directly replies to the requests when the information is already available, and contacts other operational and local units in the other cases.

Overall, most of the CLOs are staffed by up to five officials, with one Member State reporting that the CLO has only one person working in it, and, on the other end of the spectrum, two Member States have appointed more than 20 full-time equivalents. It is worth noting that the size of the CLO is not correlated to whether the CLO is also in charge of administrative cooperation in areas other than direct taxation. During the 2013-2017 period, the number of personnel working in the CLOs has increased, in part due to the extension in the scope of the Directive. Twelve Member States also included Liaison Departments in their internal organisation, while 13 designated Competent Officials.

All Member States have internal written procedures (e.g. official regulations, instructions, guidelines) describing the obligations of the staff dealing with administrative cooperation, and most of them have put in place training sessions, also for personnel not generally involved in administrative cooperation activities. As of today, **all Member States have an IT system dedicated to administrative cooperation** (mostly for AEOI activities), which in ten cases is interfaced with the tax authority IT system. Since the entry into force of DAC1, at least half of the Member States have constantly modified and upgraded their IT systems in order to comply with DAC requirements and improve the EOI.

Implementing Regulations. The Commission's Implementing Regulations mentioned in section 2.5.5 are binding and directly applicable in all Member States without the need to transpose their provisions. **Their operationalisation included the development of the Yearly Assessment questionnaires and homologation of the scope and forms of AEOI statistics** (particularly for DAC1), which sometimes required extensive preparatory activity and entailed agreements between DG TAXUD and the Member States. The set of data and information to be exchanged and communicated to the Commission was extensively discussed and tested in

⁹⁷ See WG ACDT – 39th meeting – 13-14 October 2016, Summary Report, 27 October 2016 and WG ACDT – 40th meeting – 6 February 2017 – Minutes of the meeting, 27 February 2017.

order to reach an agreement on the formats that could be acceptable to all 28 Member States and informative enough for the reporting requirements of the Commission.

3.8 Summing Up

The transposition of the Directive generally worked well, and the bulk of issues emerging from the analysis concerned late transposition and notification rather than substantive discrepancies. Out of the 57 infringement procedures opened by the Commission for the transposition of DAC Provisions, only three remain pending, and in no cases were the Member States brought before the Court of Justice of the European Union.

All Member States have appointed a CLO and managed to set up an IT system for complying with the requirements of the Directive. **The intensity of preparatory activities shows major variations across the various sets of provisions. There is little doubt that the greatest efforts were required in the case of DAC2.** This is hardly surprising, considering that AEOI under DAC2 required the acquisition of new information on a massive scale, the collection of which was entrusted to private organisations.

For all DAC provisions, implementation started more or less as planned. The limited delays experienced by the first AEOI exchanges under DAC1, DAC2 and DAC3 are not surprising, considering the newness of the mechanism. In this respect, the timely start of the DAC2 exchanges, despite the occurrence of last-minute technical issues, appears particularly positive.

4 UPTAKE OF THE DIRECTIVE'S PROVISIONS

4.1 Introduction

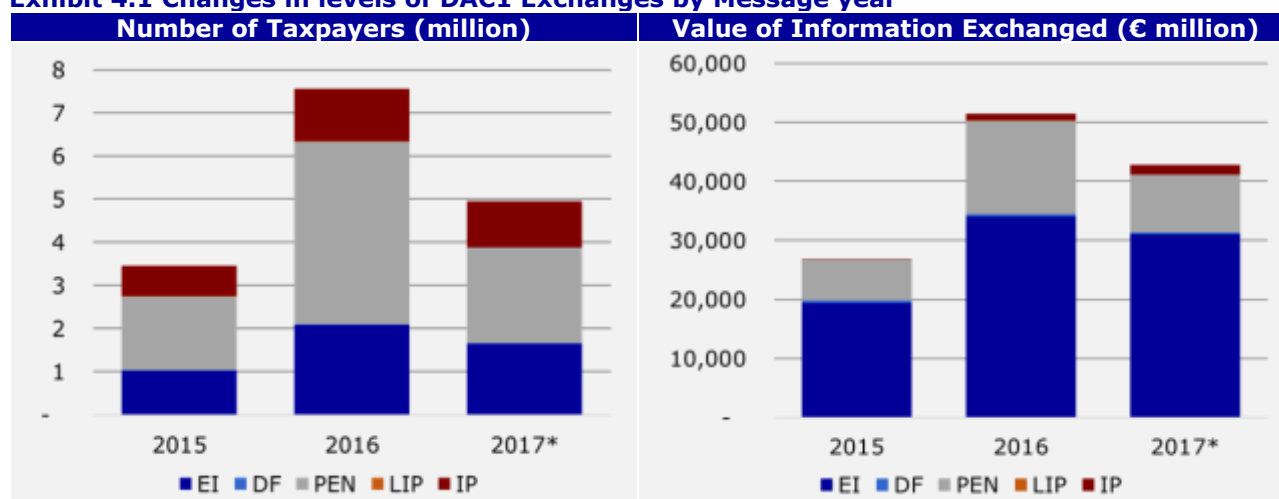
This Section provides a comprehensive overview of the uptake of the various tools and instruments supported by the Directive. The section is structured as follows: Section 4.2 focuses on the AEOI, with three subsections dedicated respectively to incomes and assets covered by DAC1 (4.2.1), financial assets covered by DAC2 (4.2.2), and DAC3 exchanges of ATR/APA (4.2.3). Section 4.3 concerns the exchange of information other than AEOI, i.e. upon request and spontaneous exchanges. The other forms of administrative cooperation (i.e. PAOE and simultaneous controls) are addressed in Section 4.4. Finally, Section 4.5 provides some concluding remarks.

4.2 Trends in Automatic Exchange of Information

4.2.1 AEOI on Income/Asset (DAC1)

Overview. During the time between the beginning of DAC1 exchanges in 2015 and mid-2017,⁹⁸ **Member States exchanged some 11,000 messages referring to nearly 16 million taxpayers and to incomes/assets worth over € 120 billion.** The volume of exchanges across the five categories of incomes/assets shows major variations. **The exchanges concerning EI and PEN are by far the most important,** accounting for over 80% of taxpayers and around 97% of the value. Some 30% of taxpayers and 70% of the value is related to EI alone. PEN accounts for half of the taxpayers, and about one-fourth of the overall amount. The exchanges concerning IP are of more limited importance, as they concern some 20% of taxpayers but only 2% of the value. The exchanges regarding DF and LIP have a significantly smaller size, representing less than 1% of the total volume, with respect to both the number of taxpayers and the overall amount. **The volume of information exchanged has grown over time, with a twofold increase between 2015 and 2016.** The data on the first half of 2017 suggest that the growth trend continued also in that year (see Exhibit 4.1).

Exhibit 4.1 Changes in levels of DAC1 Exchanges by Message year⁹⁹



Note: * Partial

Source: own elaboration of AEOI Statistics

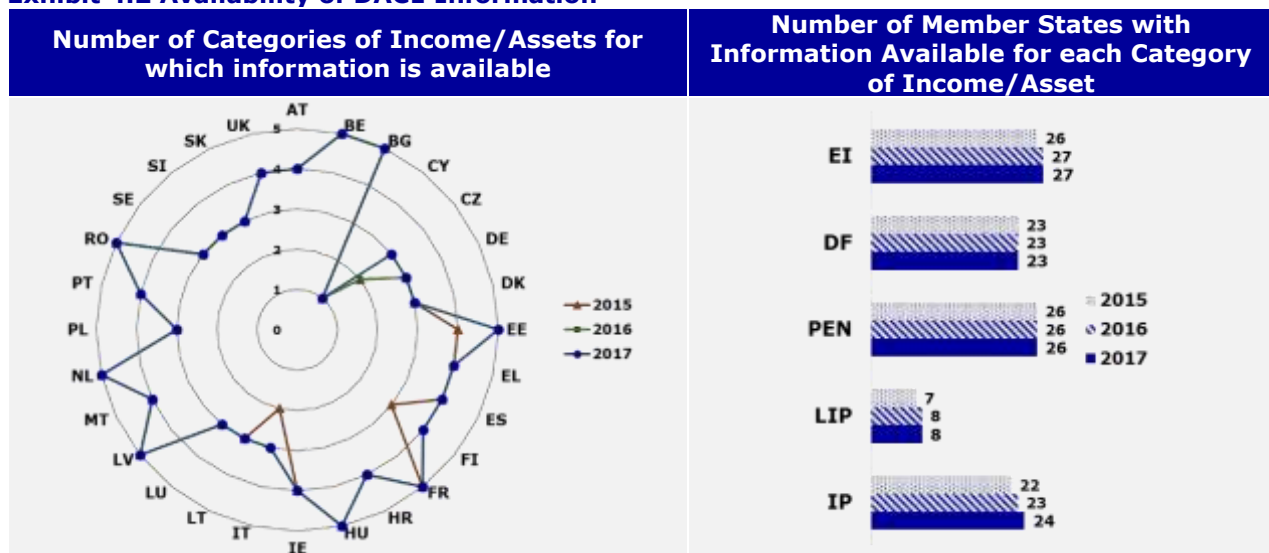
⁹⁸ In principle, the latest AEOI statistics for DAC1 submitted by Member States to the Commission in late 2017 available at the time of writing generally only cover the exchanges that occurred up to June 30, 2017. However, in a minority of cases, the databases also include messages sent after that date, mainly during July and August 2017, but also up to December 2017. These exchanges concern quite a low share of taxpayers, ranging between 0.4% in the case of IP, and 9% for LIP (also due to the lower number of countries sending information on this category), and between 2% of the amounts for DF and PEN, and 9% again in the case of LIP.

⁹⁹ The message year is the year in which information is exchanged between Member States. It is different from the tax year, which is the year to which the information refers.

Availability of information. Under DAC1, Member States are mandated to share the information which they have available, and they are not required to carry out any additional data collection besides what is normally done for internal purposes. **In 2017, eight Member States had information available for all five categories of incomes/assets covered by DAC1, and another ten had information available for all categories apart from LIP.** Only one country, Cyprus, had information available for only one category of income (namely PEN). The remaining nine countries were in a position to exchange information on three income categories. **Four out of five income categories are available in 22 or more Member States, while only eight are able to share information on LIP as of 2017** (see Exhibit 4.2 below).¹⁰⁰

The availability of information has evolved only marginally between 2015 and 2017, with only four countries – the Czech Republic, Estonia, Finland and Italy - increasing the number of income categories for which information is available. **The increase in the availability of information seldom entails the collection of additional information, but is rather achieved by improving the management and quality of the information already available.** This was, for instance, the case of the Czech Republic for IP: in 2015 the country reported that national authorities were in the process of gaining a better understanding of the information available in external databases in order to address the unavailability of information. Similarly, as confirmed during the interview conducted with the tax authority representatives, in 2016 Finland started sending IP information regarding the tax year 2015 after it had integrated different databases: “the source is not one [...] but several national tax databases”.

Exhibit 4.2 Availability of DAC1 Information



Source: Yearly Assessment

Box 4.1 Actions to improve availability

Only a minority of Member States appears to have planned a process to address the unavailability of certain categories of incomes/assets, ranging between five countries for IP, to no country at all for LIP. Notably, for all income types, the number of countries planning to improve availability has decreased over time with no perceivable improvement in the availability of information. This is often attributed to a lack of resources. Such is the case of Ireland, which in the 2017 YA stated that the collection of the LIP information “would require a significant deployment of resources to implement an IT solution”. Similarly, Slovakia reported that actions to improve availability for several categories would not be undertaken since “they would require significant administrative burdens for the Slovak Republic, with little scale of benefits for areas other than AEOI”. Similarly, Belgium reported that “given the resources currently available and the other projects for

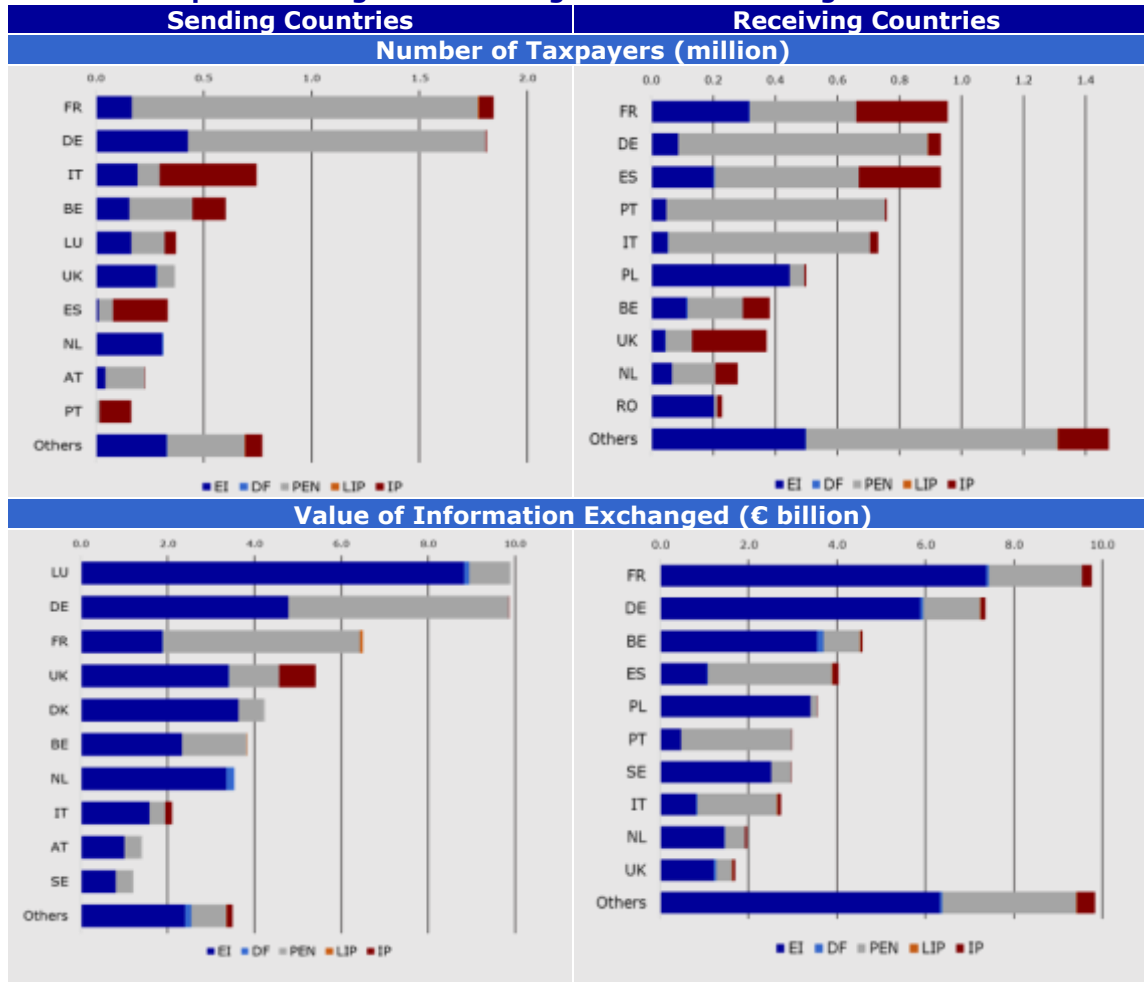
¹⁰⁰ This is, for instance, the case of Denmark, which in answering the Yearly Assessment questionnaires all three years declared to have information on DF available, but specified that “[d]ue to the Danish regulations on reporting of director’s fees, we are not able to distinguish between income from employment and director’s fees.” In fact, the statistics show that no DF-labelled message has been sent by Denmark. Notably, other countries which are in the same situation, as for instance Slovenia, declared that they did not have information available on DF.

AEOI that have to be implemented, these improvements are not considered a priority". Finally, a number of Member States reported that an improvement would **require a change in the national legislation**. This is the case for LIP in Italy (*"the required changes would affect our general framework for tax returns, which would entail a change in legislation"*) and in Slovenia (*"according to Slovenian legislation LIPs are mostly exempted from taxation under certain conditions therefore they are not reported"*). Only Malta reported that the reason behind the lack of any plan to improve the availability of information on EI, DF, and PEN is that it would impose significant burdens on economic operators.

Sending and Receiving Countries. The distribution of the number of messages sent and received under DAC1 is skewed toward a small number of large receivers and, more significantly, senders (see Exhibit 4.3. overleaf). In the message year 2016, **the top five sending countries exchanged information concerning approximately 70% of the taxpayers and the amounts**, and the share increases to over 90% for the top 10 countries. The distribution is less concentrated when the data are analysed from the perspective of receiving countries. In fact, **the five largest destination countries receive information concerning some 57% of the taxpayers and the overall amount concerned**, and the top 10 countries account for some 80% of the information. It is not surprising that **large EU countries such as France, Germany, Italy, Spain, and the UK are among both the top senders and receivers**, even though their profiles vary in terms of income categories. For instance, in terms of taxpayers, France and Germany are by far the largest senders of information regarding EI and PEN, while a substantial share of the information they receive concerns IP. The situation is exactly the opposite for Italy and Spain: a large share of the information they send concerns IP, while they mostly receive information concerning PEN.¹⁰¹

Overall, **exchange patterns are generally consistent with intra-EU migration patterns**. Emigration countries are net receivers of information. In particular, Poland receives information on 14 times more taxpayers than it sends information about, and on an amount that is 19 times as much. The country is, overall, the sixth largest recipient of messages in terms of taxpayers, and the fifth largest in terms of amounts concerned. The reverse is the case for the net immigration countries, such as Luxembourg. This country sends information on five times as many taxpayers than the number on which it receives information, and on over 30 times the amounts. Other countries, such as Spain and Portugal, are also among net receivers, while countries such as Germany and Denmark are net senders. The case of France is particularly interesting: the country is a net receiver in terms of information regarding the amount involved, with a positive balance of some € 3.3 billion, while it is a net sender in terms of taxpayers, sending information on approximately twice as the number of taxpayers it receives information about.

¹⁰¹ The importance of the Netherlands as a sending country is likely to be underestimated, as the country did not exchange PEN information in 2016. During the interview with the tax authority, it was clarified that this was due to technical issues and to a change in the IT systems. Information was regularly exchanged in the subsequent period.

Exhibit 4.3 Top 10 Sending and Receiving Countries – Message Year 2016

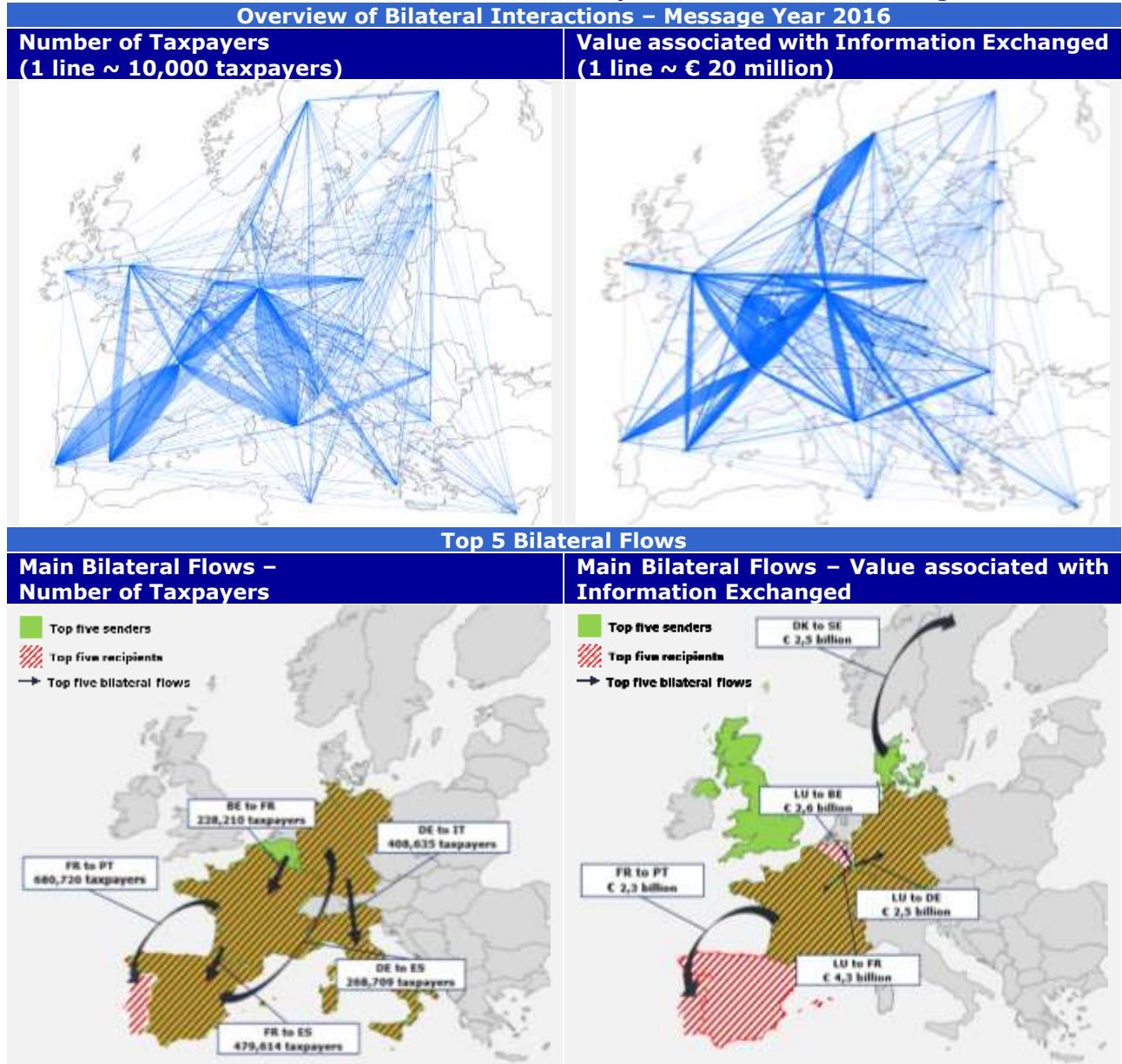
Source: own elaboration on AEOI Statistics

Bilateral Exchanges. The network of information exchanges among Member States is quite complex. In the message year 2016, there was a total of 716 bilateral interactions (involving information sent and/or received), compared with a theoretical maximum of 756.¹⁰² There were only two pairs of countries with no information flows in message year 2016: Sweden and Greece and Greece and Slovenia. **The magnitude of the bilateral interactions varies considerably.** On average, each bilateral exchange concerned some 10,500 taxpayers and over € 72 million, with values ranging from just one taxpayer to over 680,000 and from a mere € 253 to over € 4.3 billion. Out of the 716 bilateral interactions, 444 (i.e. 62%) concerned fewer than 1,000 taxpayers and 624 (i.e. 87%) referred to fewer than 10,000 taxpayers.

An overview of the bilateral exchanges is provided in Exhibit 4.4. **The diagrams clearly show a high degree of concentration,** although with different patterns depending on whether the number of taxpayers or the value associated is considered. **In terms of taxpayers, France and Germany - the main sending countries - display significant flows towards Spain, Portugal and Italy** (about 1.8 million taxpayers). They are followed by Belgium, which reported information on more than 200,000 taxpayers to France. **The situation is completely different when the value associated with the information exchanged is considered.** Indeed, the three top flows, accounting for more than € 9 billion, originate from Luxembourg towards Belgium, France and Germany. As for the other important flows, one concerns the information provided by Denmark to Sweden, and only the fourth most important flow between France and Portugal shows a clear correlation with the exchange of information in terms of number of taxpayers.

¹⁰² I.e. 28 X 27. For any given bilateral relationship (i.e. between country A and country B), there could be two interactions (e.g. country A sending information to country B and vice versa).

Exhibit 4.4 Overview of Bilateral Interactions and top 5 Bilateral Flows – Message Year 2016



Source: own elaboration on AEOI Statistics

4.2.2 AEOI on Financial Assets (DAC2)

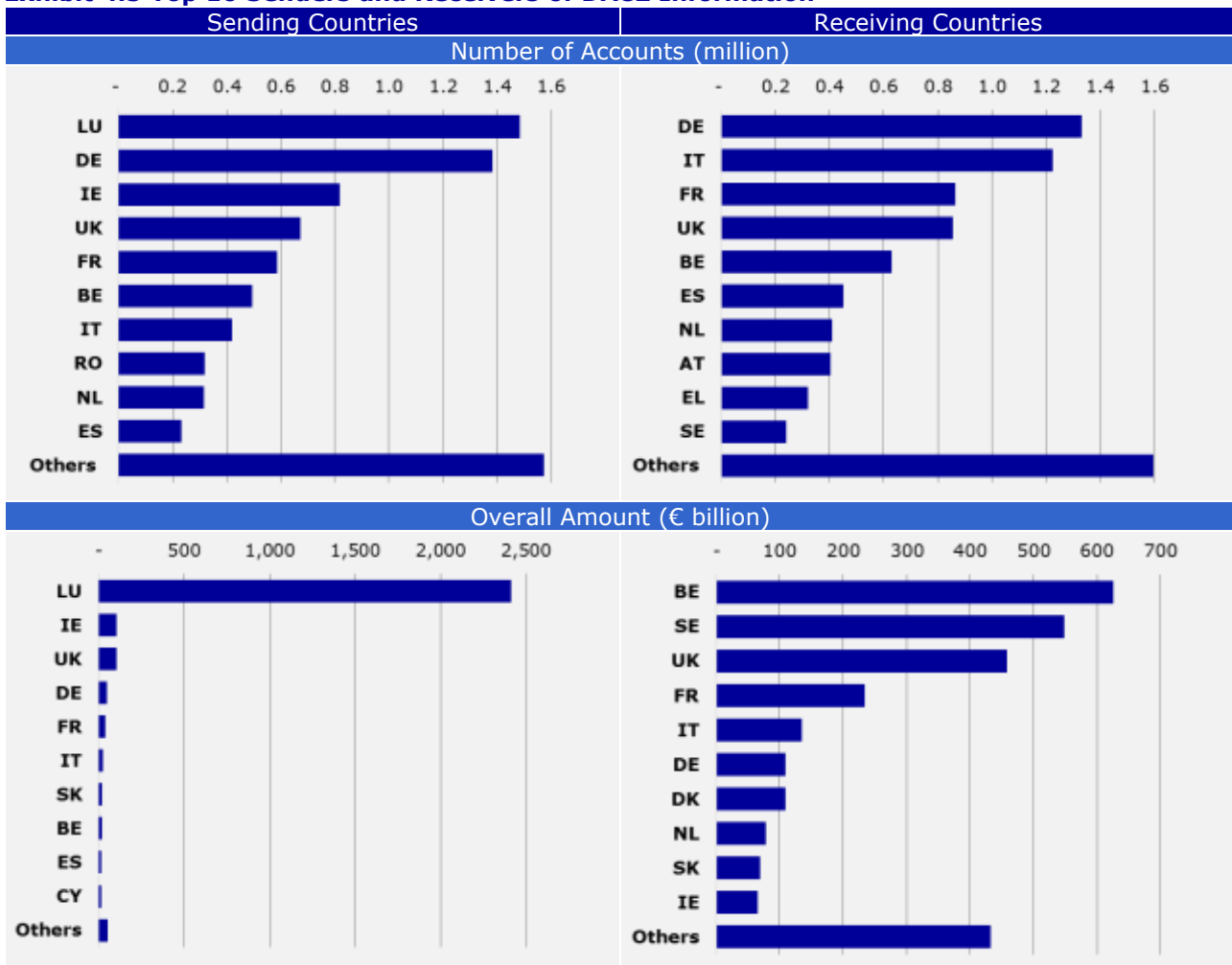
Overview. Over the seven-month period spanning from September 2017 to early 2018,¹⁰³ **Member States exchanged some 4,000 messages, concerning some 8.3 million accounts.**¹⁰⁴ The exchanges covered several financial indicators linked to the so-called ‘reportable accounts’. The analysis presented here focuses primarily on the **end-of-year account balances**, for which a total value of **€ 2,865 billion** was reported. The other financial variables covered by DAC2 exchanges, include: (i) dividends distributed, for a total value of € 14.8 billion; (ii) interest income, amounting to some € 18.2 billion; (iii) gross proceeds from

¹⁰³ For most countries, the information on DAC2 exchanges covers the period up to March 2018, while the statistics concerning the UK include also messages sent in July 2018.

¹⁰⁴ It is important to note that DAC2 provisions allow for different deadlines for the due diligence of the pre-existing accounts, with a first deadline on 31 December 2016 for high value accounts (i.e. with a value above the equivalent of US\$ 1 million), and a second deadline set at 31 December 2017 for low-value accounts. As a consequence, the abovementioned figures (and especially the number of accounts) are likely to increase once the DAC2 mechanism will be fully implemented.

sales of financial assets (i.e. maturities and redemptions), amounting to some € 850 billion; and (iv) other unspecified payments related to the accounts, for some € 59.4 billion. Predictably, **the outgoing flows of financial information are dominated by Luxembourg**, which accounts for 18% of the accounts and nearly 85% of the amounts reported. Ireland is also an important sending country, ranking third and second in terms of the number of accounts and the total amount reported. Regarding incoming information, in terms of the number of accounts, the ranking broadly reflects the size of the Member States' economies, with Germany, Italy, France, and the UK accounting for half of the total. In contrast, **when considering the value associated with the financial information reported, the ranking is led by Belgium, Sweden and the UK**, which cumulatively account for 57% of the total value. In this case, large Member States, such as France, Germany, and Italy, play a more modest role, having cumulatively received financial information regarding some € 480 billion, i.e. just one-sixth of the total amount reported.

Exhibit 4.5 Top 10 Senders and Receivers of DAC2 Information



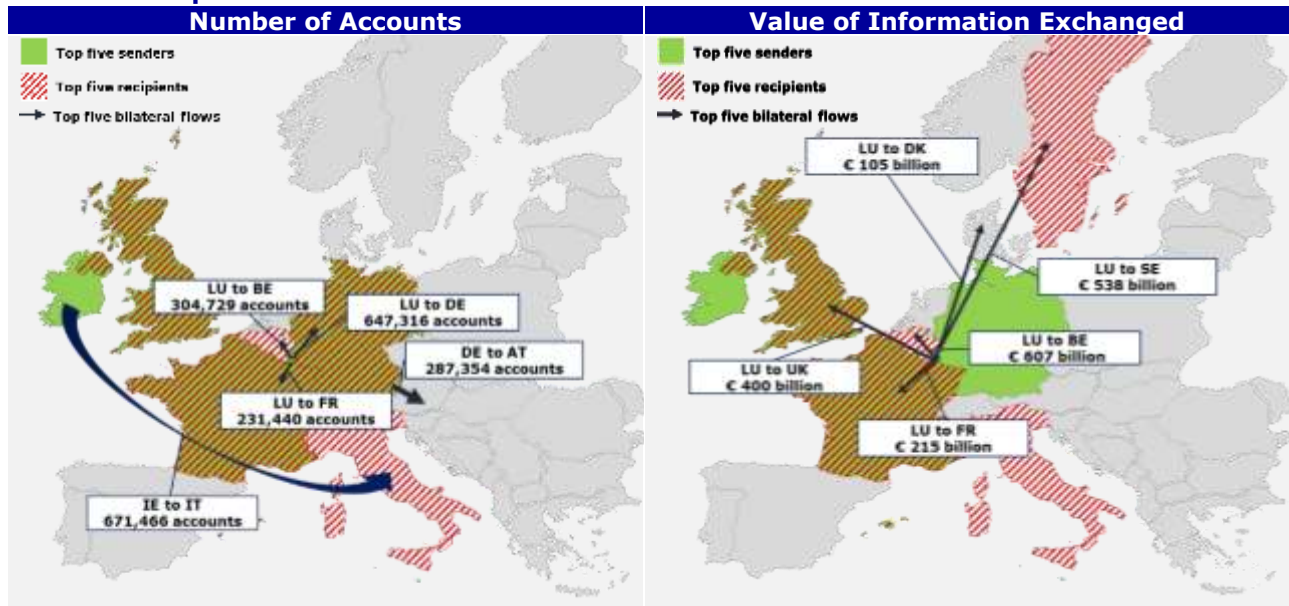
Source: own elaboration on AEOI Statistics

Bilateral Exchanges. Given the above, unsurprisingly, **the flows of bilateral exchanges are centred on Luxembourg and, to a much smaller extent, Ireland**. As shown in Exhibit 4.6 overleaf, in terms of total value, Luxembourg originates all of the top five flows, as well as nine of the top 10 bilateral relationships. The situation is somehow less concentrated in terms of the number of accounts, with Luxembourg accounting for three of the top five information flows. Luxembourg's main bilateral relationship is with Belgium (more than € 600 billion and some 300,000 accounts, with an average value of € 2 million), but considerable amounts were also reported to Nordic countries (some € 540 billion to Sweden and € 100 billion to Denmark). Ireland originates the single largest bilateral relationship in terms of accounts, having reported

slightly more than 670,000 positions held by Italian tax residents, worth a total of some € 57 billion (with a relatively low average of € 85,000). According to the Italian authority, in the majority of cases these exchanges concern insurance policies sold by local branches which do not have a stable organisation in Italy.

Germany is the second largest sender of financial information and the origin of four of the top 10 bilateral interactions in terms of number of accounts, with an average amount of some € 36,000. Other significant exchanges of financial information, not shown in the diagrams, took place between Ireland and the UK (cumulatively concerning more than 180,000 accounts for a total value reported of nearly € 80 billion) as well as between the Czech Republic and Slovakia (regarding some 150,000 accounts, for a total value of about € 20 billion). Overall, **the average bilateral exchange involved the reporting of information on some 11,700 accounts and values of € 4 billion.**¹⁰⁵

Exhibit 4.6 Top 5 Bilateral Flows



Source: own elaboration on AEOI Statistics

4.2.3 AEOI on ATR/APA (DAC3)

As of 1 February 2018, **Member States had sent information on 17,652 ATR/APA.** These include data on 11,457 tax rulings in force, as well as on 6,195 tax rulings discontinued before the start of the exchanges.¹⁰⁶ Since the mandatory exchange of information started in June 2017, these 'traffic' figures refer to **year 2017.** Data refer to **24 countries,** as four Member States (Bulgaria, Greece, Croatia and Romania) had not sent any DAC3-related information. As the information provided in the Central Directory is accessible only by Member States, no details are available on the nature of the rulings (i.e. ATR or APA), the date of issue, the duration, and the industry. Therefore, the analysis presented here is limited to the review of key trends.

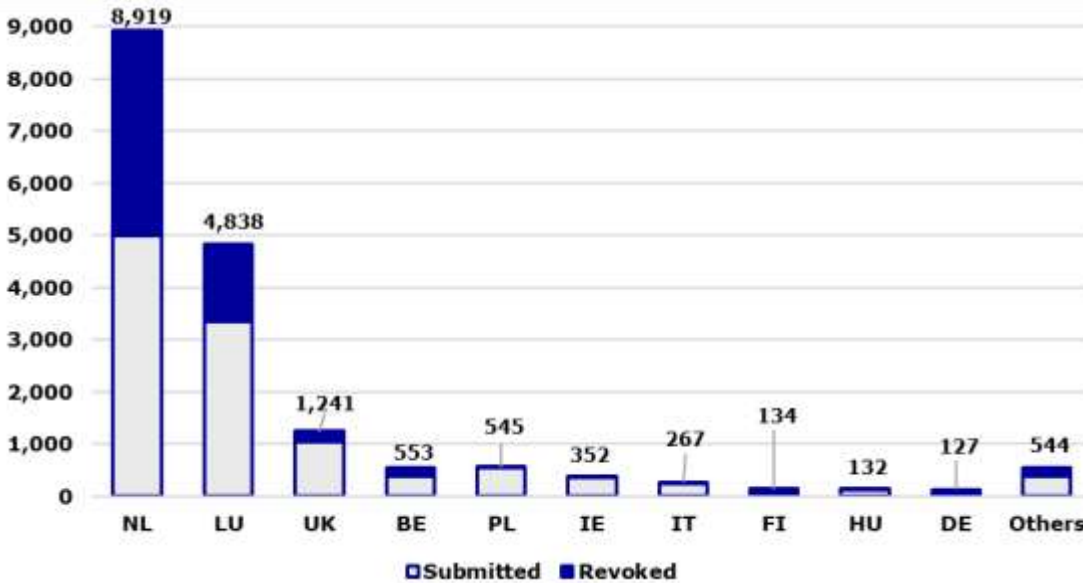
There are major differences among Member States in the number of ATR/APA exchanged under DAC3. The Netherlands leads by far the ranking in terms of information exchanged with nearly 9,000 ATR/APA, i.e. more than half of total traffic. Luxembourg is in second position, with data disclosed on nearly 5,000 ATR/APA, accounting for more than one-quarter of the total. The UK is a distant third, with data uploaded in the Directory on little more than 1,200 ATR/APA, i.e. 7% of the total. All other countries cumulatively account for about 2,600 ATR/APA, i.e. only 15% of total traffic, with only four Member States (Belgium, Poland,

¹⁰⁵ The average value of exchanges excluding Luxembourg decreases to € 710 million

¹⁰⁶ Based on the information extracted by the Commission from the Central Directory (the 'DAC3 Dataset').

Ireland and Italy) accounting for at least 1% of the total. Information on the total number of ATR/APA in force in EU Member States is not available, but overall the above ranking seems to reflect the use of this instrument by various countries.¹⁰⁷

Exhibit 4.7 Number of ATR/APA Exchanged under DAC3 - 2017

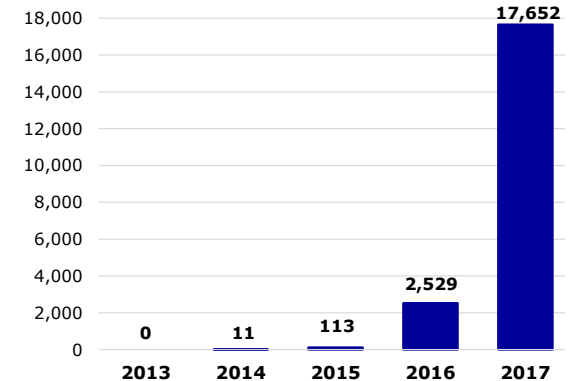


Source: DAC3 Dataset

The number ATR/APA exchanged has skyrocketed in 2017, in correspondence with the implementation of DAC3 provisions. The nearly 18,000 ATR/APA on which information has been disclosed in 2017 must be compared with the zero or near zero values recorded up to 2015 when this exchange was only spontaneous.

Only in 2016, i.e. after the Luxleaks scandal¹⁰⁸ and the adoption of the DAC3-related amendment, did the Member States start exchanging information on a significantly larger volume of tax rulings. But even in that year, the total number of messages sent barely exceeded the 2,500 mark. While the Netherlands was one of the few countries to send information on tax rulings even before the adoption of DAC3 (though absolute figures were quite low), the other two current top senders, Luxembourg and the UK, started sending some information only in 2016. Also, the cases of Ireland and Poland, two other countries known for extensive use of tax rulings, are worth noting, as they provided information for the first time in 2017. In the case of all other countries, the number of rulings disclosed is higher in 2017 than in 2016, with the only two exceptions being Spain (which communicated some 200 rulings in 2016) and Slovenia (where the number is small in any case).

Exhibit 4.8 Trend in Number of ATR/APA Exchanged – 2013 – 2017



Source: CACT Statistics and DAC3 Dataset

¹⁰⁷ On this point see the information present in Tax Justice Network’s website, in particular in the section Taxing Corporations <https://www.taxjustice.net/category/corporate-tax/taxing-corporations/>.

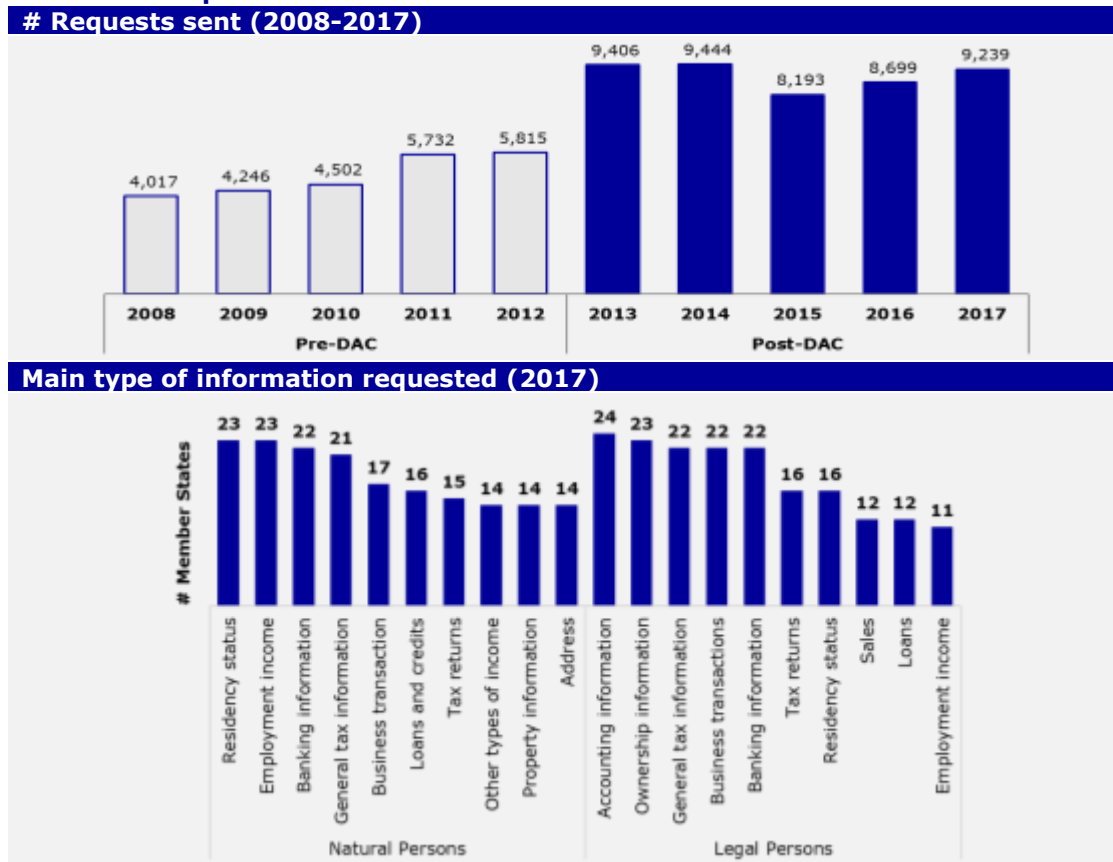
¹⁰⁸ The Luxleaks scandal, or Luxembourg Leaks, is a financial scandal concerning tax rulings issued to multinational companies in that country and revealed in November 2014 by a journalistic investigation.

4.3 Trends in Exchange of Information on Request and Spontaneous Exchange of Information

Overview. The analysis of the uptake of the exchanges of information other than AEOI is based on two key sources of information, namely the statistics provided annually by the Member States (CACT statistics), and the QFD that Member States have compiled each year since 2014.¹⁰⁹ The CACT statistics record the overall use of the various ACDT provisions, but do not include any detail on the contents of the exchanges (e.g. number of taxpayers, amounts, type of information exchanged). On the other hand, qualitative information on these exchanges (as well as other forms of cooperation) is collected via the QFD. Nevertheless, the QFD information is not always consistent with the quantitative evidence from the CACT Statistics. In the rest of the analysis, whenever a contradiction emerges, priority is given to the CACT Statistics.

Exchange of Information on Request. Between 2013 and 2017, Member States **sent almost 45,000 requests for information**, corresponding to between 8,200 and 9,400 requests per year. This represents a substantial increase compared to the pre-DAC levels, when the number of requests ranged between 4,000 and some 5,800 (see Exhibit 4.10 below). In absolute value, this increase is driven by the top senders (see below). However, only a handful of countries on average sent less requests after the Directive than before, while for no less than 14 countries the average in the 2013-2017 period is at least 50% higher than the 2008-2012 average. The main types of information requested on natural persons include: (i) confirmation of residency status, (ii) details on EI, and (iii) general tax information. For legal persons they include: (i) accounting and company ownership information, (ii) general tax information, (iii) business transaction information, and (iv) banking information (see Exhibit 4.9 below).

Exhibit 4.9 Requests for information

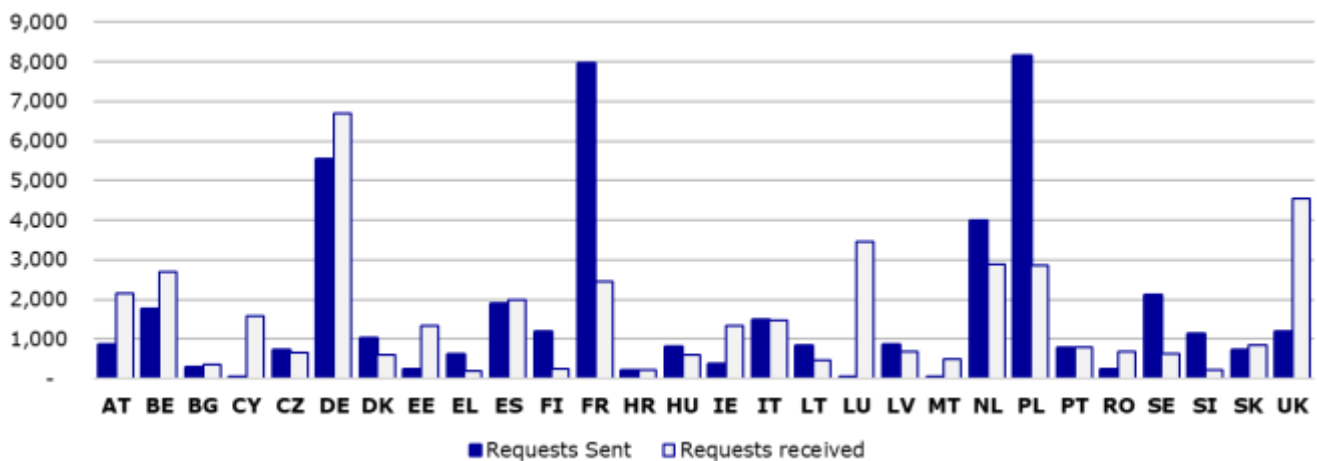


Note: Number of respondents: 28
 Source: CACT Statistics and QFD 2017

¹⁰⁹ The information included in the Questionnaires on the Functioning of the Directive refers to the previous year (e.g. the QFD submitted in 2014 covers 2013). For consistency, reference is made to the year to which the information refers (e.g. the QFD submitted in 2014 about 2013 information is referenced as 'QFD 2013').

The distribution across Member States of sent and received requests remained broadly unchanged between 2013 and 2017. **Poland, France and Germany are the countries that are most active in sending requests for information** to other Member States, cumulatively being the origin of approximately half of all requests. Germany is also the top recipient – one sixth of the total – followed at some distance by the UK and Luxembourg. Finland and Slovenia are the countries with the highest ratio between the number of requests sent and those received; Luxembourg and Cyprus are on the opposite end of the range. For instance, Luxembourg received nearly 3,500 requests over the five years, while sending only 39. Among larger countries, France and Poland have high ratios between requests sent and received, nearly 330% and 290% respectively, while the UK is a net recipient, with over 4,500 incoming requests, against some 1,200 sent.

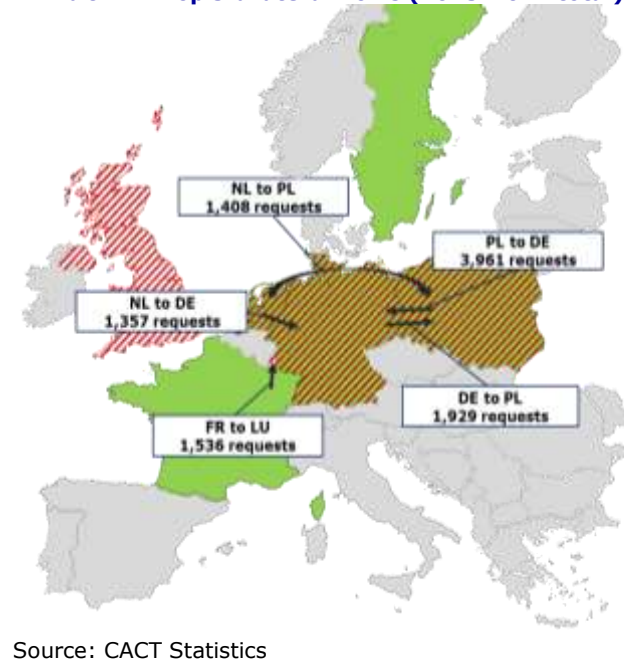
Exhibit 4.10 Country distribution of requests for information sent and received (2013-2017)



Source: CACT Statistics

As can be seen in Exhibit 4.11, **almost all main bilateral flows occur between bordering countries**. The bilateral interaction between Germany and Poland (cumulating the requests sent in both directions between the two countries) accounts alone for one-eighth of all requests over the five years covered by the analysis. Overall, only eight of the top 20 bilateral flows do not occur between bordering Member States, and only one of the top five, namely the one from the Netherlands to Poland. The latter can partly be explained with the increasing number of Polish immigrants residing in the Netherlands.¹¹⁰ However, since 90% of these requests (1,311 out of 1,408) were sent in 2013, this seems connected to specific actions taken by the Dutch revenue authorities (e.g. related to the so-called “Polenfraude” scandal).¹¹¹ Other exceptions include requests sent to Luxembourg from Nordic countries (i.e. Sweden and Denmark),

Exhibit 4.11 Top 5 bilateral flows (2013-2017 total)



Source: CACT Statistics

¹¹⁰ See Dutch Central Bureau of Statistics (CBS), Population by migration background – Population with a Polish background, <https://opendata.cbs.nl/statline/#/CBS/en/dataset/37325eng/table?ts=1552388230494>

¹¹¹ In September 2018, the Dutch media started reporting about the “Polenfraude” scandal, which saw a number of Polish workers receiving unduly unemployment benefits from the Netherlands. The Dutch Employee Insurance Agency (UWV) became aware of the fraud in 2012 (see for example <https://nos.nl/nieuwsuur/artikel/2248811-poolse-arbeidsmigranten-plegen-op-grote-schaal-uitkeringsfraude.html>), which may explain the peak in requests for EOIR in 2013.

which may be referring to highly mobile professionals, as well as requests from Poland to countries such as Belgium, France, the Netherlands, and the UK, which may be explained by labour force movement.

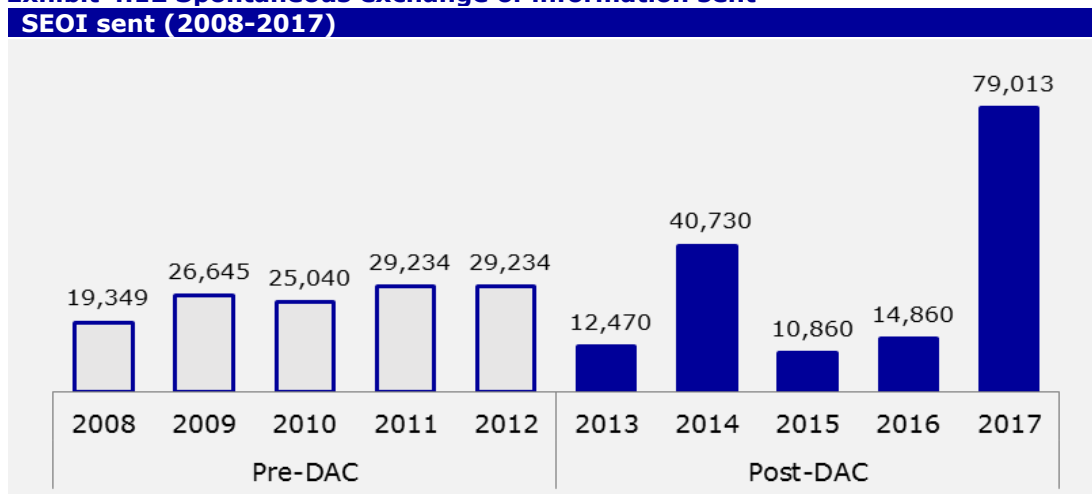
The EOIR can be supplemented with a reasoned request to carry out administrative enquiries, as per Article 6(2) of the Directive. The requested authority may deem it is not necessary and inform the other country of the reasons why. The supplementary request for administrative enquiries is seldom used by the Member States: in 2017 and 2015, four Member States did so, and only one in 2016. Only Belgium used this tool every year between 2015 and 2017.

Spontaneous Exchange of Information. Since 2013, **Member States sent almost 158,000 SEOIs**. The number of SEOIs shows an oscillating trend over time, with a sharp increase between 2013 and 2014; a steep decline between 2014 and 2015, and a five-fold rise from 2016 to 2017. The number of SEOIs sent in 2014 and 2017 is substantially higher than the exchanges occurred before the adoption of the Directive, while the figures are well below pre-DAC level in the other years (see Exhibit 4.12 below).

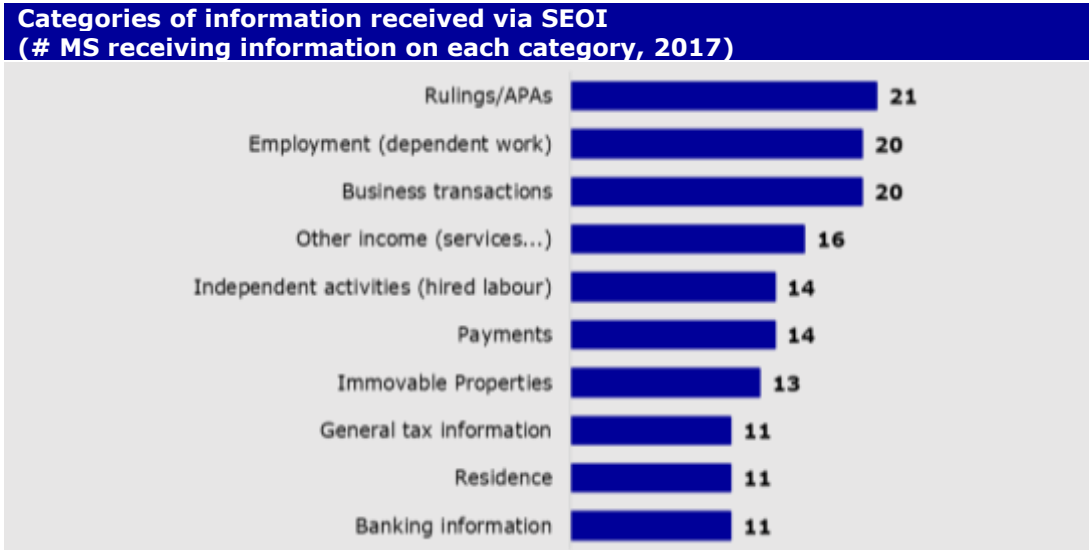
The Netherlands and, to a much lesser extent, a handful of other countries, dominate SEOI exchanges. The fluctuations recorded in the overall SEOI trends are indeed heavily influenced by the Netherlands alone, and particularly by the SEOIs sent by the Netherlands to Germany, which represent alone between one fourth and over four fifths of all SEOIs sent each year.¹¹² It should be noted that, although the Dutch-German flow dominates SEOI trends, the fluctuations are coherent with the nature of the instrument itself. In fact, the Member States use SEOIs to exchange information when it becomes available to the tax authority and when it is deemed to be of interest to a partner country. This may happen randomly, e.g. as a consequence of national tax investigations, or may be the effect of a specific project, as in the case of the Netherlands, which can create a high volume of information becoming available all at once.

The information most frequently exchanged spontaneously concerns ATR and APA, with 21 countries receiving at least one exchange (see Exhibit 4.12), of which 11 received 30 or more exchanges in 2017. Following ATR/APA, information on income from employment and on business transactions was received by 20 countries each.

**Exhibit 4.12 Spontaneous exchange of information sent
SEOI sent (2008-2017)**



¹¹² According to the Dutch authorities, the fluctuations are connected to specific national projects, including the exchange of information on estate properties in regions bordering Germany, as well as in changes in bilateral tax agreements which, in recent years, prompted the exchange of information on German residents previously considered not relevant.



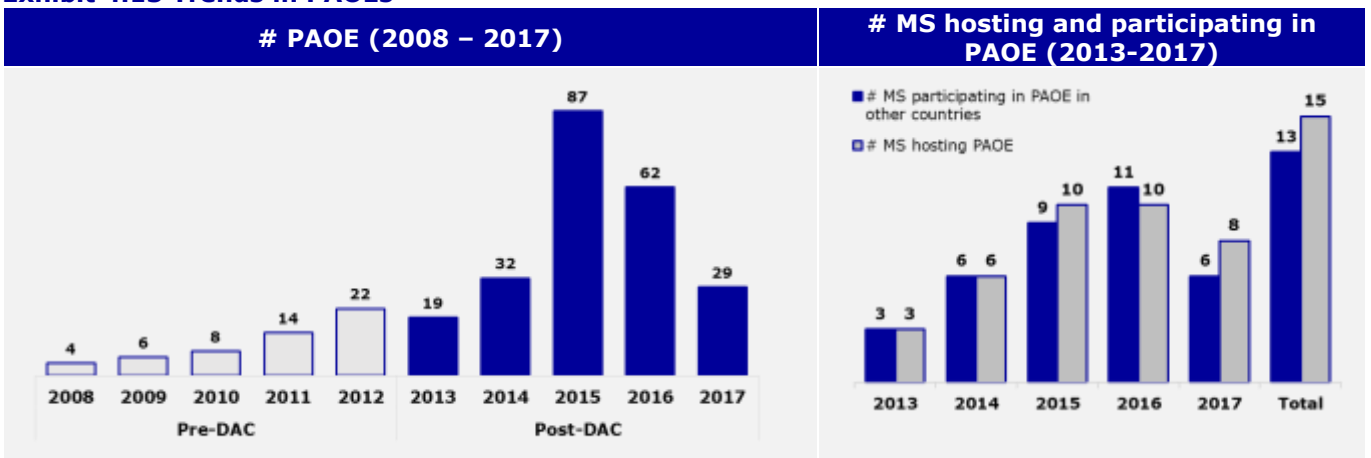
Note: Number of respondents: 28
Source: CACT Statistics, QFD 2017

4.4 Trends in Other Forms of Administrative Cooperation

Presence in Administrative Offices and Participation in Administrative Enquiries.

Between 2013 and 2017, officials from 13 Member States participated in PAOE in other Member States, while 15 countries hosted at least one PAOE, for **a total of 229 PAOEs**. Thirteen countries were not involved in any PAOE, neither hosting foreign officials nor participating in enquiries in other countries, while two (namely Cyprus and Hungary) hosted respectively two and one PAOE, without participating in any PAOE abroad. The number of PAOEs per year shows an increase in 2015, and then a drop again in 2017, although still above the pre-DAC levels. According to the information shared in the QFD, there seems to be a progressive growth in the share of PAOEs in which the hosted country officials can participate in the investigation.¹¹³ However **in no less than 12 countries the national legislation does not allow officials of another Member State to interview individuals or to examine records**,¹¹⁴ and in another four countries the permission for such activities is subject to certain caveats. For instance, in Austria and Germany the taxpayer's consent is necessary, while in Italy there is a reciprocity requirement, i.e. officials from countries in which active participation is permitted can also actively participate in Italy.

Exhibit 4.13 Trends in PAOEs



Source: CACT Statistics

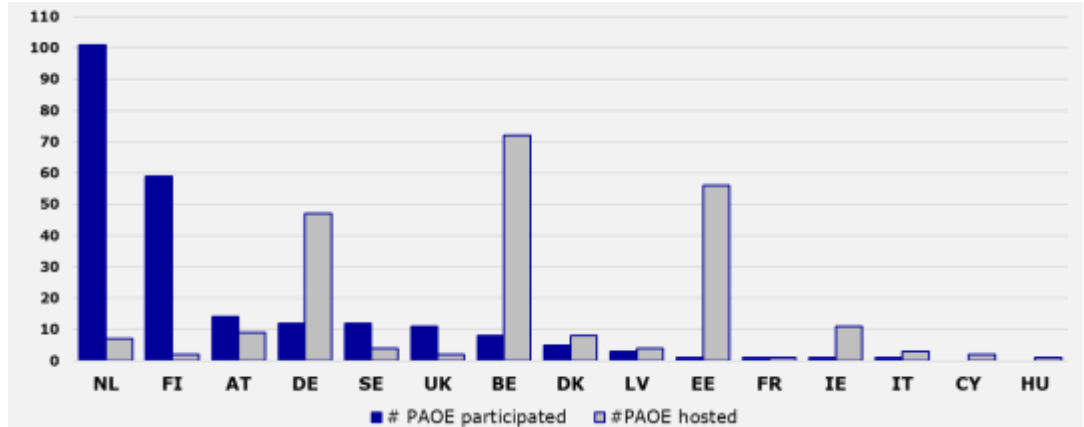
¹¹³ The number of Member States reporting their participation in PAOEs in the QFDs, either as host or in another country, does not correspond to the information provided in the CACT statistics.

¹¹⁴ The answers provided in the Questionnaires are adjusted based on narrative comments.

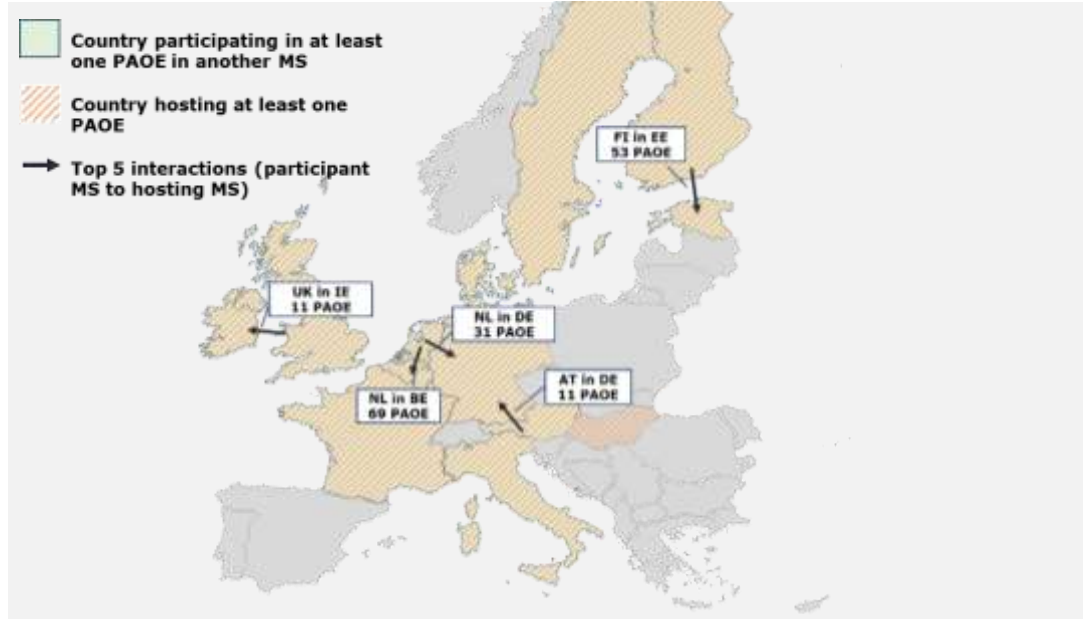
As for other ACDT tools, also in this case the use of the instrument is highly concentrated, with two countries, the Netherlands and Finland, initiating more than two-thirds of all PAOEs. Similarly, Belgium, Estonia, and Germany hosted a total of 175 PAOEs, accounting for more than three-quarters of the total. Notably, **Member States tend to have repeated PAOEs with a maximum of five, mostly neighbouring, Member States**. For instance, between 2014 and 2017 the Netherlands carried out 100 of the 101 PAOEs in only two countries, namely Belgium and Germany. In the same vein, over the five years under consideration, Finland participated in 53 PAOEs in Estonia, three in Denmark, two in Sweden, and one in Latvia. The situation is not different for the hosting countries: Germany is the only country hosting the presence of officials from four other Member States (namely the Netherlands, Austria, Denmark, and Sweden), while all other Member States host officials from three or fewer other Member States.

Exhibit 4.14 Geographical distribution of participation in PAOEs

Number of PAOE by Member State (total for 2013-2017)



Main PAOE interactions (total for 2013-2017)

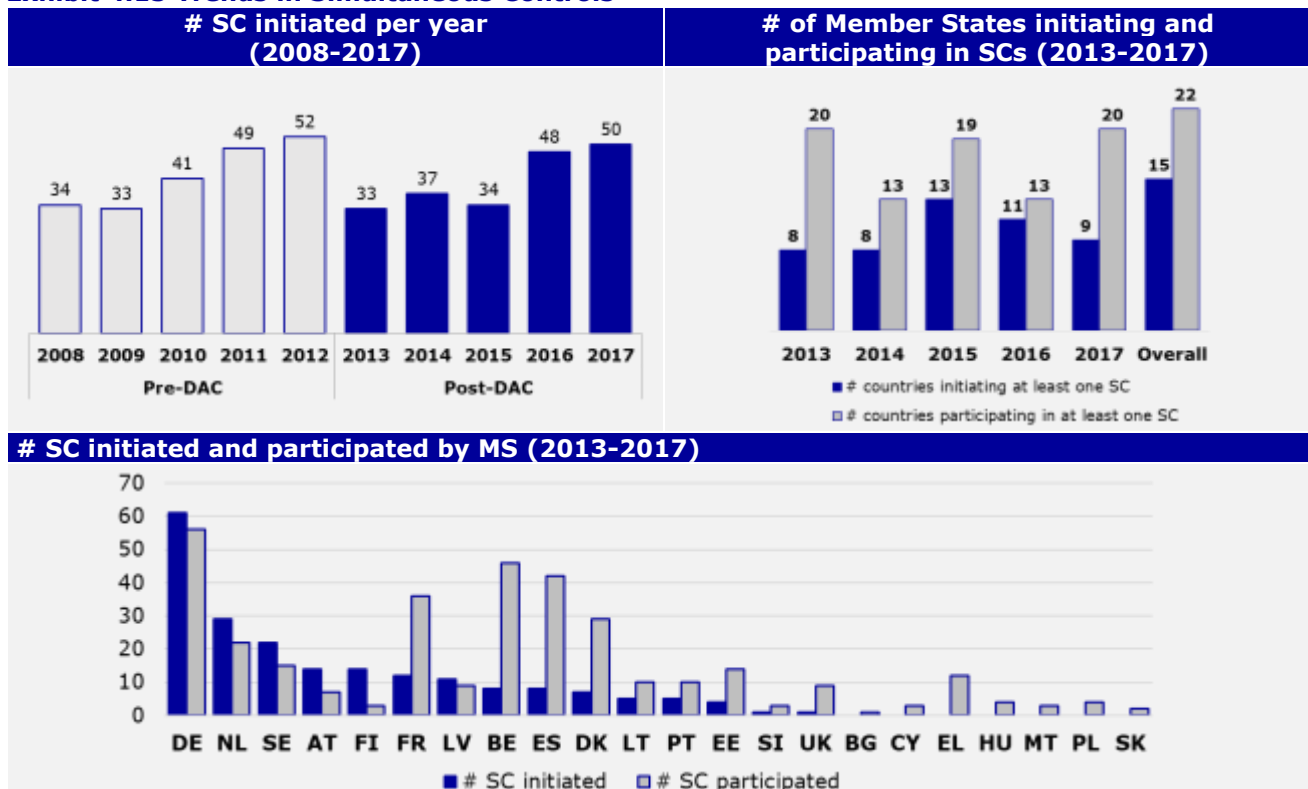


Source: CACT Statistics

Simultaneous Controls. Information on SCs carried out since the entry into force of the Directive is particularly scattered. On the one hand, the CACT statistics include information on the number of SCs initiated by each Member State, as well as on the number of SCs in which countries have participated. However, no information is collected on which Member States are involved in the SCs initiated by the various countries, and vice versa. In the QFDs, on the other hand, Member States are asked to report on the Member States with which they had good experiences with SCs, but not to specify which Member State is the initiator of the control. Some general considerations are nevertheless possible.

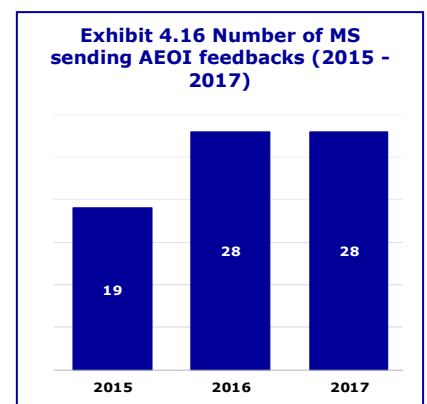
Between 2013 and 2017, **22 Member States took part in the 202 SCs carried out**. The SCs were initiated by a total of 15 Member States, while another seven countries did not initiate any SCs, but participated in one or more SCs. The number of SCs initiated each year increased between 2013 and 2017, as did the number of countries involved. Germany initiated 61 SCs, corresponding to nearly one-third of the total, while the Netherlands and Sweden initiated more than 20 SCs each. Germany and Belgium are the countries participating in relatively more SCs initiated by other countries, with respectively 56 and 46 participations. Other countries often involved in SCs include Spain, France, and Denmark. Also, for SCs, neighbouring countries tend to interact relatively more often. However, compared to PAOEs, the interactions involved are significantly broader in reach: Germany reports having carried out SCs with 21 Member States since 2013, while the number is even higher for the Netherlands, which had SCs with all other Member States except two, and Denmark, which interacted with 23 Member States.

Exhibit 4.15 Trends in Simultaneous Controls



Source: CACT Statistics

Feedbacks. According to Article 14(1), competent authorities providing information via the EOIR or SEOI mechanisms may request that the receiving Member State provide a feedback. On a different note, Article 14(2) requires the provision of **bilateral feedbacks on AEOI once per year**. Feedbacks create a learning mechanism that can improve the quality of the information exchanged. Conversely, if the feedback is not provided, competent authorities in charge of collecting and exchanging the information are not able to know if the information that they provided was usable. For this reason, the Commission recently fostered Member States to make a full use of the feedback mechanisms enshrined in the DAC.¹¹⁵



¹¹⁵ Cf. Commission AEOI Report. Cf. also Report from the Commission on the application of Council Directive (EU) 2011/16/EU on administrative cooperation in the field of direct taxation, COM(2017)781, 18.12.2017, at p. 5.

Today, all Member States provide and receive the AEOI feedbacks, as shown in Exhibits 4.16, up from the 19 Member States that did so in the first year of DAC1 exchange. When breaking down the feedbacks received in 2017 by AEOI provision (i.e. DAC1, DAC2, DAC3), **the number of Member States that sent feedbacks on DAC2 and DAC3 remains lower compared to DAC1**. This can be explained by the different vintage of the various provisions, and it is likely that the provision of feedback will become standard practice in the coming years also for DAC2 and DAC3.

On a country basis, not all Member States provide yet a feedback to all the Member States with which they exchange data via the AEOI. In 2017, on average, each Member State sent and received about 14 feedbacks. While ten Member States sent feedbacks to 20 countries or more, nine Member States only did it to five countries or less. Since bilateral flows, on the contrary, take place for most of the possible pairs of Member States,¹¹⁶ it appears that in many cases the compliance with the Article 14(2) feedback provision is less than perfect – which again reinforces the Commission’s call for effort in this area.

4.5 Summing Up

The uptake of the provisions of the Directive resulted in information regarding substantial numbers of taxpayers and value being exchanged. In 2016, the exchanges under **DAC1 AEOI** concerned around 7.5 million taxpayer positions and some € 50 billion of incomes. This information flow mostly covered EI and PEN. The exchanges of information under both DAC2 and DAC3 are still in their early stages. However, the **DAC2** information exchanged in the first six months already concerned some 8.3 million accounts and € 2,865 billion of value (in terms of account balance); under **DAC3**, information on about 18,000 ATR/APA was uploaded in the Central Directory in the second half of 2017.

Concerning tools and mechanisms other than AEOI, between 2013 and 2017, an average of 9,000 **EOIR** requests were sent per year. EOIRs are used by all EU Member States, the largest senders of requests being Poland, France, and Germany. As for **SEOI**, the flow of information varied substantially over the period considered, ranging from 10,000 to 80,000 per year; most of these exchanges originated from the Netherlands. With respect to **OFACDTs**, their utilisation is uneven across the Member States. Over the period covered by the analysis, 229 PAOEs and 202 SCs were carried out, respectively involving tax officials from 15 and 22 Member States. As for the provision of feedbacks, in 2017 all Member States sent and received at least one feedback on the information exchanged.

The available evidence shows a progressive intensification in the uptake of the AEOI mechanisms. This has definitely been the case for DAC1, with a near doubling of volumes between 2015 and 2016 (with an expected further increase in 2017, based on the data concerning the first six months). In the case of DAC2, no comparison over time is possible, but the amounts covered have seemingly grown with respect to the value of the assets reported under the EUSD.¹¹⁷ **The involvement of Member States in SCs is also increasing**, both in terms of the number of initiatives and countries participating. On a different note, **the number of EOIRs remained roughly stable between 2013 and 2017**, although the number of EOIRs per year after the adoption of the Directive is significantly higher than the pre-DAC level. The involvement in PAOEs and SEOIs followed an oscillating trend, without a clear pattern over time.

Due to their nature, the geographical distribution of the flows of information and of the deployment of the tools differs by provision. **AEOI flows of information under DAC1 and DAC2 can be largely explained by national demographic and economic structures.** For DAC1, the information follows the current as well as the past intra-EU migration paths, with larger countries being the top senders and recipients; conversely, the most relevant DAC2 exchanges are dominated by Luxembourg, due to its role as a financial centre. **The geographical distribution of the uptake of the other tools and mechanisms has no clear**

¹¹⁶ Cf. Section 4.2.

¹¹⁷ Cf. Section 5.2.1.

pattern, as it is strongly influenced by few very active countries. This suggests that the uptake of the Directive provisions is also influenced by idiosyncratic factors, such as the way in which the activities of tax authorities are organised at the national level, or the interests of the Member States in using a certain tool. For non-AEOI provisions (and to some extent also for AEOI), **the bulk of the bilateral interactions occur among neighbouring countries.**

5 RELEVANCE

5.1 Introduction

This Section presents the assessment of the **relevance of the Directive** according to the following structure. First, in Section 5.2, the **magnitude of the issues at stake** is analysed to gauge the extent to which the Directive addresses problems which are significant for the EU. Subsequently, Section 5.3 evaluates **the extent to which the Directive is aligned with the needs and priorities of the EU**, both at the time of its adoption and today. Finally, Section 5.4 assesses **the alignment of the Directive with its objectives** in order to verify whether the design of its provisions is fit to achieve them. Section 5.5 summarises the main findings for this evaluation criterion. The following analysis relies on the desk research, the targeted consultation of tax authorities and other stakeholders, and the PC.

5.2 Magnitude of the issues at stake

Among other challenges, the Directive is expected to address **cross-border tax evasion and tax avoidance by individuals and companies**. In this Section, an attempt is made to quantify the dimension of these issues, and thus their relevance to the EU. More in details, Section 5.2.1 focuses on tax evasion, which is addressed mainly by DAC1, DAC2, and DAC5, and Section 5.2.2 deals with corporate tax avoidance, which is addressed mainly by DAC3 and DAC4.

Box 5.1 A guide for data comparison

Among other elements, Sections 5.2.1 and 5.2.2 include a reflection on the comparison between tax evasion and the overall national wealth. For DAC1 and DAC2, the quantification covers the **tax base** (or income base) concerned by AEOI. For DAC3 and DAC4, the estimates of corporate tax avoidance measure **tax revenues** losses. The two figures are not immediately comparable: a certain amount of tax revenues expressed in relative terms (e.g. 1% of the EU GDP) is larger than the tax revenues recoverable from an increase in the tax base equal to e.g. 1% of GDP. In other words, if the losses from profit shifting are equal to 0.3% of GDP, and the DAC1 AEOI incomes represent 0.3% of GNI, the losses for Member States from profit shifting are larger than the revenues potentially recoverable from the proper taxation of non-resident incomes.

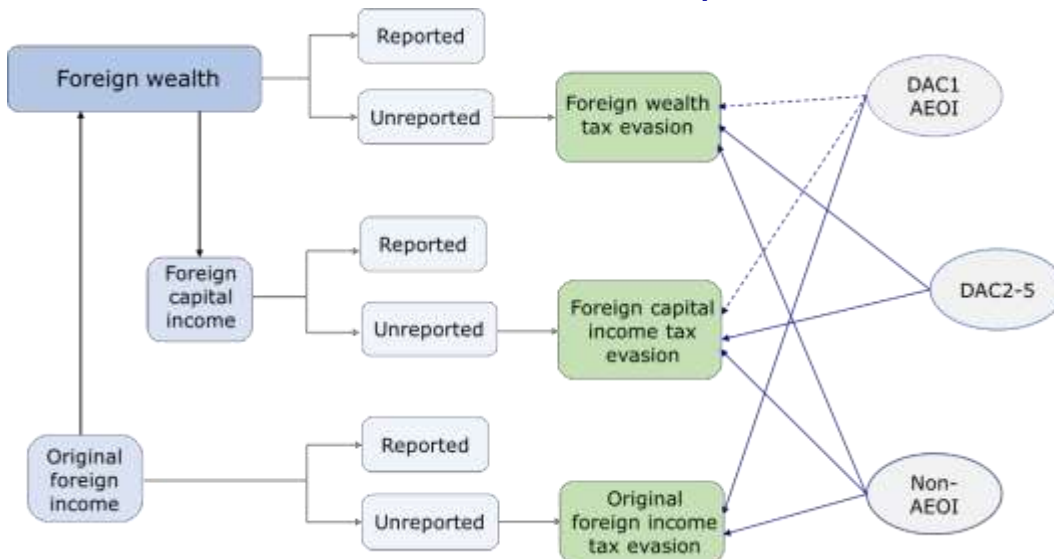
5.2.1 Cross-border tax evasion

The term 'tax evasion' encompasses the cases in which an individual or a legal entity gains an undue advantage by breaching a fiscal statutory requirement, regardless of whether this is intentional (in this case it can be termed 'tax fraud') or not. A recent study¹¹⁸ attempted to identify the possible sources of offshore tax evasion for individuals. A similar reasoning can be applied to classify **the sources of intra-EU tax evasion**, particularly for individuals. Three possible sources are identified:

1. **Unreported original foreign income**, that is income gained in a Member State other than that in which the taxpayer has tax residency;
2. **Unreported foreign wealth**, that is the possibility for a taxpayer to detain undeclared financial, immovable, or other movable assets in another Member State;
3. **Unreported foreign capital income**, that represents proceedings obtained from undeclared foreign wealth.

These three streams of incomes and wealth may be involved in different forms of tax evasion and are addressed by different DAC provisions. In particular, DAC1 AEOI mainly addresses foreign income tax evasion, as well as unreported foreign wealth and capital income from immovable properties and insurance policies. DAC2 and DAC5 both address unreported foreign wealth and capital income. The non-AEOI provisions can be deployed against all the three sources of tax evasion.

¹¹⁸ ECOPA and CASE, Estimating International Tax Evasion by Individuals – Draft final report for the European Commission, 21 December 2018, unpublished.

Exhibit 5.1 Source of intra-EU tax evasion and DAC provisions

Note: the dotted line identifies secondary contributions

Source: Authors' elaboration on ECOPA and CASE, Estimating International Tax Evasion by Individuals

While there are estimates for intra-EU VAT tax evasion,¹¹⁹ such figures regarding direct taxation could not be retrieved.¹²⁰ For this reason, the **total value of the incomes and assets associated with the information exchanged via DAC1 and DAC2 AEOI is used as a proxy** of the size of the phenomenon.¹²¹ Indeed, data on most of the financial assets detained by non-resident taxpayers – legal and natural persons – should have been exchanged under DAC2,¹²² while DAC1 AEOI covers the most relevant sources of incomes for individuals (with the possible exclusion of the incomes from certain forms of self-employment).

DAC1 AEOI. The **overall value of incomes associated with the information exchanged via DAC1 AEOI is marginal in comparison to the EU Gross National Income (GNI)**. This implies that the additional tax base potentially covered by this tool is limited in comparison to the income generated by tax residents. More precisely, the value associated with the information exchanged through DAC1 AEOI concerning the tax year 2015 amounts to some **0.3% of EU GNI**, with limited variations among Member States (see Exhibit 5.2 below).¹²³ Indeed, in all Member States, except Cyprus, the figure is below 1%, with smaller economies usually displaying a higher value. For seven Member States, including the UK, the share is below 0.1%. Importantly, most of the additional tax base covered by DAC1, namely EI and PEN, is also usually subject to a withholding tax or pay-as-you earn system, which may allow a tax deduction in the country of residence. As such, only a share of the amounts associated with information exchanged via DAC1 AEOI can translate into an additional tax base and then into additional tax revenues. Consistently, **cross-border workers represent a marginal share of the overall**

¹¹⁹ CASE – Center for Social and Economic Research (2018), Report for the European Commission, Study and Reports on the VAT Gap in the EU-28 MS, Final Report; Commission Staff Working Document, Impact Assessment Accompanying the document Proposal for a Council Directive amending Directive 2006/112/EC as regards harmonising and simplifying certain rules in the value added tax system and introducing the definitive system for the taxation of trade between Member States, SWD(2017)325, 4.10.2017.

¹²⁰ Cf. aslo Remeur C., and Dobrova A., EPRS - European Parliamentary Research Service, *The fight against tax fraud*, Briefing EU policies, January 2019 for a recent review on this issue.

¹²¹ Using data reported by or to the authorities for estimating the underlying illicit phenomenon is a common methodology used in the social science, whenever no direct observation is available. Cf Thornberry, T. P., and Krohn, M. D. (2003, January). Comparison of self-report and official data for measuring crime. In *Measurement problems in criminal justice research: Workshop summary* (pp. 43-94). Washington, DC: National Academies Press.

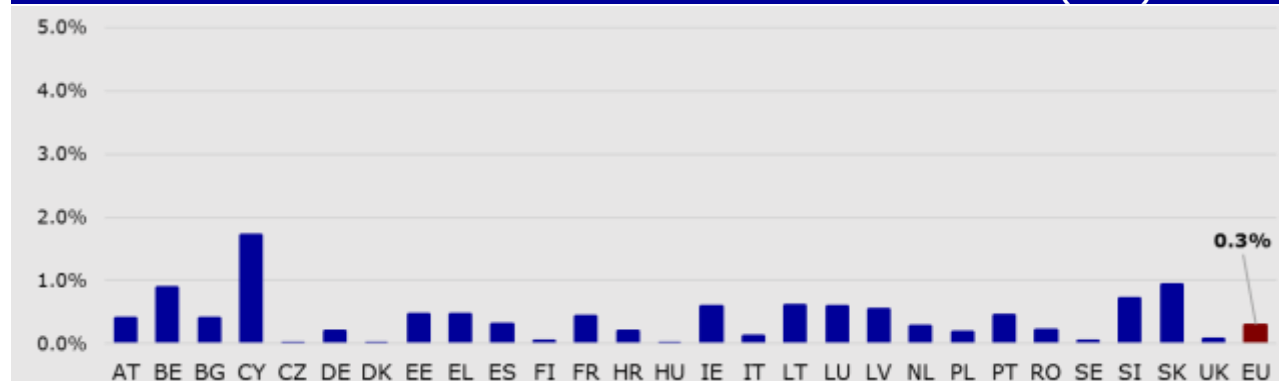
¹²² Excluding the (residual) non-reportable institutions and accounts.

¹²³ No information on Malta GNI; the analysis was not done on DAC1 information for tax year 2016 as information is not complete for that year (see Section 4 for more details).

working age population, ranging between 0.1% for Italy, and nearly 4% for Slovakia, for an overall average of 0.5% for the 25 countries for which this information is available.¹²⁴

Exhibit 5.2 Magnitude of income categories covered by DAC1 AEOI

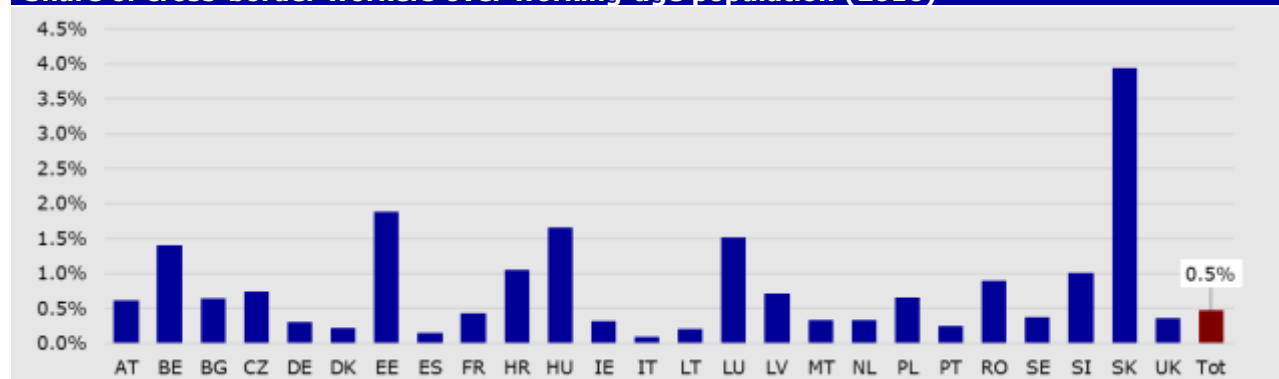
Share of value associated with information involved in DAC1 flows over GNI (2015)



Notes: Excluding Malta

Source: Authors' elaboration on AEOI Statistics. WB indicators (GNI), BCE (US\$/€ exchange rate).

Share of cross-border workers over working-age population (2016)



Notes: Excluding Cyprus, Greece, and Finland

Source: Authors' elaboration on EC, 2017 Annual Report on Intra-EU Labour Mobility and Eurostat

The magnitude of EI flows is aligned with the current intra-EU movement of labour. As of 2016, Poland and Romania, the two main receivers of EI information, were by far the two leading countries of origin of recent intra-EU migrants and cross-border workers.¹²⁵ Similar considerations apply to the two top senders of EI information, France and Germany, which were the first and second largest countries of destination for cross-border workers in 2016. EI flows – and, despite the limited coverage, DF flows as well – also reflect another component of intra-EU labour mobility, namely the new generation of **well-paid mobile professionals**. Originating from France, Germany and the Benelux, these people have jobs 'across the border', particularly in Luxembourg's financial and service sectors. The same applies to mobile professionals working and residing across Nordic countries. In both geographical areas, these movements are an example of sectors relying on foreign highly-qualified workers.¹²⁶

¹²⁴ The same analysis was attempted for cross-border pensioners, but is not reported here since Eurostat data are highly incomplete (e.g. no data France, and very limited data for the UK and Spain). Based on the available data, in 2018 the share of citizens over 65 years who are usual residents in another EU country was 1% of all citizens in that age class.

¹²⁵ EC, 2017 Annual Report on Intra-EU Labour Mobility - Final Report, January 2018.

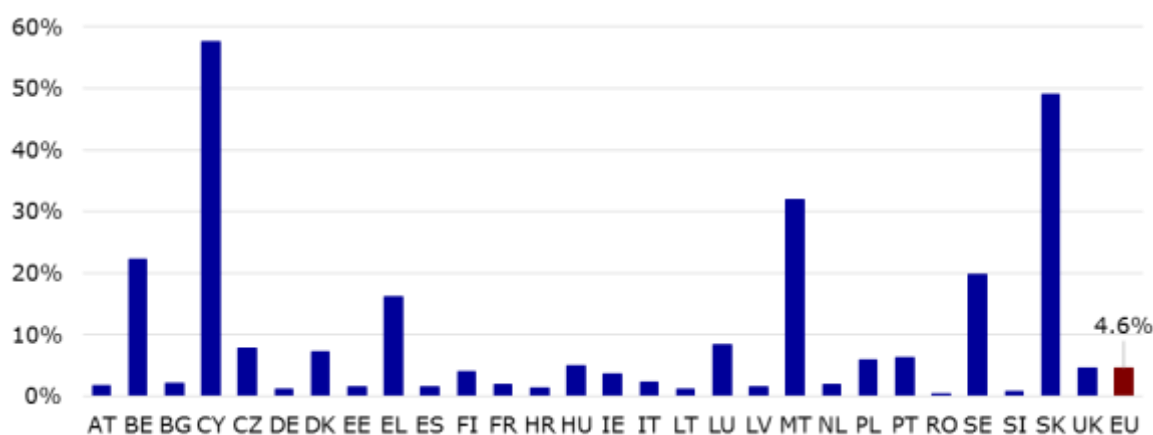
¹²⁶ In 2017, 'non-resident borderers' (i.e. people commuting daily from France, Belgium and Germany) accounted for almost 44% of total employment in Luxembourg. The near totality were wage earners. Recent data on the composition of the labor force by sector is not easily available. However, considering that in 2010 (the last year for which information is available) Luxembourg's financial sector had some 34,500 foreign workers compared with about 8,500 Luxembourgers, there is little doubt that professionals from neighboring areas account for a major share of employment. According to information provided by an Italian bank with a branch in Luxembourg, the average gross wage in the financial sector is in the order of € 80,000/year, about one third above the corresponding level in Belgium and in France (and well above the € 62,000/year for the whole service sector recorded by national statistics). See STATEC, Luxembourg in Figures 2018 and STATEC, Employment in the Luxembourg credit institutions, financial sector professionals and

Much in the same vein, **information flows on PEN are closely correlated with old migration patterns**, as measured by the United Nations' data on migration stocks.¹²⁷ As of 1990,¹²⁸ the top three receivers of PEN information, Italy, Spain and Portugal, accounted for almost one-third of total intra-EU migration stocks, with 3.2 million people living in another Member State. Of these, nearly 2.5 million (i.e. almost 80%) had settled in Germany and France, with a concentration of Portuguese and Spaniards in France, while Italians were more evenly distributed between France and Germany. These figures are well aligned with DAC1 data, with 1.9 million pensions reported by France and Germany to Italy, Spain and Portugal in the message year 2016.

As for **the information on cross-border real estate ownership**, the flows mainly concern German, French, British, and, to a smaller extent, Dutch and Belgian taxpayers owning real estate in Italy and Spain as well as Ireland and Portugal. As the value associated with the information exchanged (i.e. the rental value) is small, it can be inferred that these are primarily owner-occupied dwellings.

DAC2 AEOI. In 2016, **the information on the end-of-year account balance exchanged under DAC2 corresponds to 4.6% of the gross financial assets held by households and non-financial corporations.**¹²⁹ In relative terms, the magnitude is about ten times higher compared to that covered by DAC1. The variations across countries are quite large, with a share of 20% or more in small countries (Cyprus, Slovakia, and Malta) or in mid-size countries that are well integrated into their regional economies (Belgium, Sweden). In the five largest Member States, the shares are much lower: 2% or less for Germany, France, Italy, and Spain, and 5% for the UK.

Exhibit 5.3 Share of the value associated with information in DAC2 flows over gross financial assets (2016)



Source: Authors' elaboration on AEOI statistics, Eurostat

management companies 1999 – 2018 accessible at https://statistiques.public.lu/stat/TableViewer/tableView.aspx?ReportId=12922&IF_Language=eng&MainTheme=2&FldrName=3&RFPPath=92.

¹²⁷ United Nations – Population Division, Workbook: UN_MigrantStockByOriginAndDestination_2017, December 2017, available at <http://www.un.org/en/development/desa/population/migration/data/empirical2/migrationflows.shtml>.

¹²⁸ Reference is made to 1990 because that year is often regarded as the dividing line between the 'old' intra-EU migration flows, within the EU 15, and the 'new' migration patterns, mostly concerning 'new' Member States. For an analysis of intra-EU migration trends see Van Mol, C., and de Valk H., (2016), Migration and Immigrants in Europe: A Historical and Demographic Perspective, in Garcés-Masareñas B and R Penninx (eds), Integration Processes and Policies in Europe - Contexts, Levels and Actors. For a more succinct analysis, see Sturm-Martin I, Migration in European History, lecture delivered at the European University Institute on 17-18 November 2014 available at <https://www.eui.eu/Documents/RSCAS/PapersLampedusa/FORUMSturm-Martinfinal.pdf>.

¹²⁹ Gross financial assets held by households and non-financial corporations are measured via Eurostat, Households - statistics on financial assets and liabilities and Non-financial corporations – statistics on financial assets and liabilities data series.

The information on interest income reported under DAC2 was compared with the values reported under the EUSD, taking into account that the assets and entities concerned by the latter were different. According to the information provided by the Commission, in 2005 the exchanges of information under EUSD involved 3.5 million accounts and concerned interest incomes worth some € 3.6 billion. In 2011, EUSD exchanges covered a similar number of records but a significantly higher value, as the interest incomes reported marginally exceeded € 10 billion.¹³⁰ As indicated above, the exchanges under DAC2 reported a much higher amount of interest income, in the order of € 18 billion. Such an increase cannot be explained by looking only at the underlying economic fundamentals, as, on the one side, since 2011 interest rates have substantially declined,¹³¹ while, on the other, the amount of assets held by households and non-financial corporations increased.¹³² Therefore, it is plausible to assume that **the increase is at least partly attributable to more comprehensive reporting under DAC2 than under EUSD**

5.2.2 Corporate tax avoidance

While tax evasion considers the case in which a taxpayer breaches a statutory requirement, **tax avoidance has to do with activities and arrangements that allow taxpayers to reduce their tax liabilities without infringing the law**. In principle tax avoidance can be practiced by both individuals and companies, but **corporate tax avoidance** is considered to be far larger in scale. Corporate tax avoidance includes: (i) aggressive tax planning, through which companies try to exploit legal loopholes and mismatches among national tax systems, and (ii) profit shifting, that is the re-allocation of profits from the place in which they were generated to a different low-tax jurisdiction. These company behaviours aim at **reducing the taxation level to below the perceived 'fair' tax rate**, i.e. the rate that would be applied if no tax circumventing measures were deployed. DAC3 and DAC4 attempted to address this issue by improving the transparency of cross-border tax rulings¹³³ and pricing arrangements,¹³⁴ as well as by increasing the disclosure of information on the amounts of taxes that multinational companies pay in each Member State. The increased level of scrutiny that was made possible for tax authorities by the Directive is expected to limit both aggressive tax planning and profit shifting.

A quantitative assessment of the magnitude of corporate tax avoidance is complicated to undertake, but some estimates are available. A study by Dover *et al*¹³⁵ estimates that **the value of the loss of tax revenues in the EU due to corporate tax avoidance ranges between € 50 and 70 billion per year** (specifically, €52.3 billion for 2013 and a yearly average of €72.3

¹³⁰ This information is taken from the file 'Statistics on records + interest 26MS', which refers to the information sent by one Member State to another Member State. The Commission also provided files related to 2014 EUSD exchanges. However, these files are of limited usefulness, as they do not contain information for several Member States.

¹³¹ In the euro area, the interest rate on deposits from households with an agreed maturity of up to one year (new business) decreased from 2.76% in December 2011 to a mere 0.45% in December 2016. For more details, please refer to http://sdw.ecb.europa.eu/quickview.do?SERIES_KEY=124.MIR.M.U2.B.L22.F.R.A.2250.EUR.N.

¹³² The amount of assets and liabilities held by households and non-financial corporations amounted to € 48,277 billion in 2011, and to € 61,638 billion in 2016, corresponding to a 28% increase (source: Eurostat, statistics on financial assets and liabilities).

¹³³ 'Advance cross-border ruling' means any agreement, communication, or any other instrument or action with similar effects, including one in the context of a tax audit, and which meets the following conditions: (i) is issued, amended or renewed by the tax authority of a Member State; (ii) is issued, amended or renewed, to a particular person or a group of persons, and upon which that person or a group of persons is entitled to rely; (iii) concerns the interpretation or application of a legal or administrative provision concerning the administration or enforcement of laws relating to taxes; (iv) relates to a cross-border transaction or to the question of whether or not activities carried on by a person in another jurisdiction create a permanent establishment; and (v) is made in advance of the transactions or of the activities in another jurisdiction potentially creating a permanent establishment or in advance of the filing of a tax return.

¹³⁴ 'Advance pricing arrangement' means any agreement, communication or any other instrument or action with similar effects, and which meets the following conditions: (i) is issued, amended or renewed by the tax authority of a Member State; (ii) is issued, amended or renewed, to a particular person or a group of persons and upon which that person or a group of persons is entitled to rely; and (iii) determines in advance of cross-border transactions between associated enterprises, an appropriate set of criteria for the determination of the transfer pricing for those transactions or the attribution of profits to a permanent establishment.

¹³⁵ Dover, R. Ferrett, B., Gravano, D., Jones, E. and S. Merler (2015), Bringing Transparency, Coordination and Convergence to Corporate Tax Policies in the European Union, *Research Paper prepared for the European Parliament Research Service*

billion for the period 2009-2013). The value increases to up to €190 billion if other factors, such as special tax arrangements and ineffective collection of taxes, are considered, representing around **1.7% of EU GDP** during that time.

In a more recent study, Alvarez-Martinez *et al.*¹³⁶ found that **profit-shifting activities cost EU Member States around € 36 billion each year**, representing roughly 0.3% of their GDP. However, these effects incorporate both intra-EU and extra-EU profit shifting. From another angle, the losses due to profit shifting amount to about 8% of the total EU revenues from corporate income taxation. While the net impact is negative for the Union, resulting in an overall loss of revenues, there are significant distributional effects, because some jurisdictions can indeed gain when profits are shifted therein.

5.3 Alignment of the Directive's objectives with needs and priorities of the EU

As shown in the Intervention Logic described in Section 2.6 above, the Directive has three general objectives:

1. safeguarding Member States' **tax revenues**;
2. contributing to the proper functioning of the **internal market**; and
3. improving the perceived **fairness of the tax system**.

These general aims then translate into three specific objectives, and namely:

1. to fight **cross-border tax fraud, evasion, and avoidance**;
2. to reduce the scope for **harmful tax competition**; and
3. to increase **spontaneous tax compliance**.

In this section, the Directive's objectives are compared with the needs and priorities of the EU. In operational terms, this is done by assessing the degree of alignment between the objectives and measures of the Directive and the objectives and measures envisaged by the general EU strategies in fiscal matters, both the current ones (ongoing relevance) and those in force at the time of its adoption (original relevance). This analysis is then complemented by considering the citizens' perception of the role of the EU in fighting tax evasion, as surveyed by the Eurobarometer, and the findings from the PC.

5.3.1 Original relevance of the Directive

When it was adopted, **the objectives of the Directive were in line with the EU priorities in the field of fiscal policies**. Indeed, the need to address cross-border tax evasion and harmful tax competition to safeguard both the functioning of the Internal Market and national tax revenues has been a stable component of EU tax policy at least over the last two decades. The rationale which identified ACDT as one of the pillars to pursue these objectives was already evident at that time. This confirms that the DAC was adopted to address a number of needs that were identified as ongoing priorities for the EU tax policies.

The reference document on EU tax policy at that time was the **2001 Communication on Tax policy in the European Union - priorities for the years ahead**.¹³⁷ The Communication identified three main objectives, namely (i) the stabilisation of Member States' tax revenues; (ii) the smooth functioning of the Internal Market; and (iii) the promotion of employment. The first two objectives overlap with those of the Directive, while the promotion of employment finds no direct counterparts in the DAC. At the same time, compared to this policy, the Directive introduced a new objective, which is the promotion of tax fairness, an issue that has indeed grown in importance in the EU over the last decade.¹³⁸

¹³⁶ Alvarez-Martinez, M., Barrios, S., d'Andria, D., Gesualdo, M., Nicodème, G., & Pycroft, J. (2018). How Large is the Corporate Tax Base Erosion and Profit Shifting? A General Equilibrium Approach.

¹³⁷ Communication from the Commission to the Council, the European Parliament and the Economic and Social Committee, Tax policy in the European Union — priorities for the years ahead, COM(2001) 260, 23.5.2001.

¹³⁸ Cf. the analysis of the current tax policies discussed below.

The Communication identified several specific objectives, many of which correspond to those of the Directive, including the need to combat harmful tax competition¹³⁹ and to address unintentional non-taxation and tax evasion of personal income tax in cross-border situations.¹⁴⁰ The Communication also put emphasis on the fact that “*the potential for cooperation in the field of mutual assistance is far from fully exploited. Increased cooperation would be a major step forward in the fight against tax fraud and result in more efficient tax collection, which in turn would offset any possible losses to revenue from the coordinated elimination of tax barriers to the internal market*”.¹⁴¹

In 2006 the Commission issued another tax policy document, focusing on **the development of a coordinated strategy to improve the fight against fiscal fraud**, which aimed at “*launch[ing] a debate with all the parties concerned on the different elements to be taken into account in an ‘anti-fraud’ strategy at European level.*”¹⁴² Among these elements, the Communication identified administrative cooperation among tax authorities as one of the key pillars of the strategy, including in particular the extension of AEOI beyond the scope of the EUSD, as well as the promotion of multilateral audits.

In the immediate aftermath of the 2007-2008 economic and financial crisis, the Commission published the **2009 Communication on Promoting Good Governance in Tax Matters**.¹⁴³ Therein, it was acknowledged that the crisis intensified the need for international cooperation in this area. Hence, the Communication explored how the EU could improve its governance in the area of direct taxation, the tools that could be deployed, and how to coordinate the national efforts for implementing the relevant OECD actions. The Communication identified “*transparency, exchange of information and fair tax competition*” as the components of a good governance for direct taxation, and, consistently, underlined the importance of a prompt adoption of the DAC Proposal.

5.3.2 Ongoing relevance of the Directive

The objective of fighting cross-border tax evasion and avoidance remained a top priority of the EU tax policy in more recent periods, with the dual purpose of protecting national tax revenues and the Internal Market. Compared to the years preceding the adoption of the DAC, the emphasis has progressively shifted from cross-border tax evasion to corporate tax avoidance, i.e. towards issues of fair corporate taxation, harmful tax competition, and profit shifting.

The **2012 Communication on concrete ways to reinforce the fight against tax fraud and tax evasion**¹⁴⁴ considered that these phenomena limited the fiscal capacity of Member States, especially when taking into account the concomitant austerity policies. Furthermore, these activities undermined the fairness of the tax system. At the same time, the progressing of European integration and the resulting internationalisation of the frauds necessitated an enhancement of the administrative cooperation among tax authorities, including a better and more extensive exchange of information, and a more convergent approach in this field by means of common tools. This Communication was accompanied by an **Action Plan**,¹⁴⁵ in which the then-recent DAC1 was among the policies to accomplish a number of goals, including achieving a high level of taxpayers’ compliance, improving the treatment of cross-border tax risks,

¹³⁹ *Ibid.*, § 3.2.2

¹⁴⁰ *Ibid.*, § 3.2.3

¹⁴¹ *Ibid.*, § 2.2.

¹⁴² Communication from the Commission to the Council, the European Parliament and the European Economic and Social Committee concerning the need to develop a co-ordinated strategy to improve the fight against fiscal fraud COM(2006) 254, 13.7.2007, at p.1.

¹⁴³ Communication from the Commission to the Council, the European Parliament and the European Economic and Social Committee, Promoting Good Governance in Tax Matters, COM(2009) 201, 28.4.2009.

¹⁴⁴ Communication from the Commission to the European Parliament and the Council on concrete ways to reinforce the fight against tax fraud and tax evasion including in relation to third countries, COM(2012)351, 27.6.2012.

¹⁴⁵ Communication from the Commission, An Action Plan to strengthen the fight against tax fraud and tax evasion, COM(2012)722, 4.6.2012.

enhancing the fight against frauds, and fostering cooperation among Member States' tax authorities. The future initiatives in the plan also included the promotion of SC and PAOE, with the potential of evolving into joint audits over the long term.

In the **2015 tax transparency package**¹⁴⁶ both tax evasion and corporate tax avoidance were put at the top of the agenda. The emphasis was further shifted from only fighting tax fraud and tax evasion to also addressing other forms of tax avoidance, such as aggressive tax planning and profit shifting, by means of more transparency. On the one hand, attention was paid to DAC2, that had then been recently adopted, because it provided more transparency on financial assets held in other Member States ("it spells the definitive end of bank secrecy"). The framework for ACDT could be better aligned with the new priorities by introducing a measure to fight corporate tax avoidance, namely the automatic exchange of cross-border tax rulings – and indeed, the DAC3 proposal was part of the package. Furthermore, the Commission started considering how to introduce CbCR obligations for multinational companies in the near future – this would eventually be part of DAC4. Later that year, the Commission adopted the **Action Plan focusing on corporate taxation**,¹⁴⁷ which re-stated the intention of the Commission to explore CbCR as a means to increase transparency and thus reduce the possibility for aggressive tax planning and profit shifting. Also, it put forward the need to reinforce Member States' coordination on tax audits, within the existing frameworks for administrative cooperation. Shortly thereafter, in January 2016, the DAC4 proposal was adopted together with the **2016 Action Plan on anti-tax avoidance**,¹⁴⁸ which explained how such a proposal would reduce the opportunities for aggressive tax planning by making the tax paid in each Member States by multinational companies transparent.

In July 2016, the Commission adopted a new **Communication on possible measures to increase transparency and fight against tax evasion and avoidance**.¹⁴⁹ After reiterating the need to fight tax evasion and avoidance to preserve the proper functioning of the Single Market, Member States' revenues, and the fairness of the tax system, the Commission insisted that the additional transparency introduced by the DAC was 'necessary' and 'ambitious' compared to the progress achieved in the international arena. At the same time, in order to exploit the link between AML and tax transparency initiatives, the Commission proposed to grant the tax authorities access to AML information via the DAC5 Proposal.

Further to the analysis of the priorities of EU tax policies, **the fight against tax frauds, evasion, and avoidance represents a strategic priority for the EU citizens**. According to a 2018 Eurobarometer survey,¹⁵⁰ the fight against tax fraud remains one of the areas in which an increased EU intervention has the strongest citizens' support, only behind terrorism, unemployment, and environmental protection. This perception – which is shared by about three-quarters of EU citizens – has remained stable over the last two years. Accordingly, 57% of EU citizens believe that the current EU action remains insufficient, down from 66% in 2016 (see Exhibit 5.4 below).

¹⁴⁶ Cf. COM(2015)136.

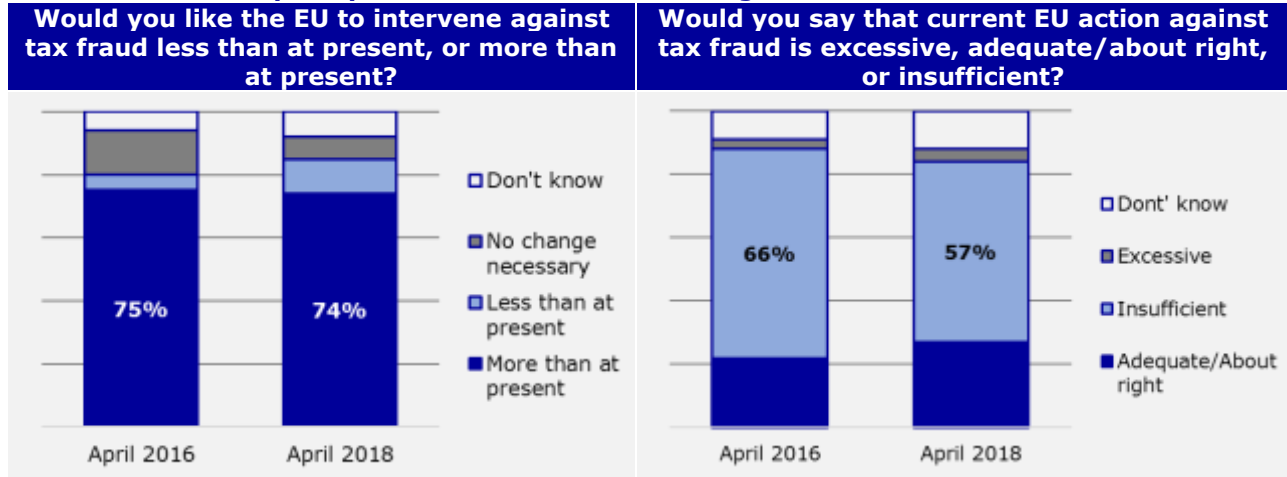
¹⁴⁷ Communication from the Commission to the European Parliament and the Council, a Fair and Efficient Corporate Tax System in the European Union: 5 Key Areas for Action, COM(2015) 302, 17.6.2015.

¹⁴⁸ Communication from the Commission to the European Parliament and the Council, Anti-Tax Avoidance Package: Next steps towards delivering effective taxation and greater tax transparency in the EU, COM(2016) 23, 28.1.2016.

¹⁴⁹ Communication from the Commission to the European Parliament and the Council, Communication on further measures to enhance transparency and the fight against tax evasion and avoidance, COM(2016) 451, 5.7.2016.

¹⁵⁰ Delivering on Europe - citizens' views on current and future EU action, Eurobarometer Survey 89.2 of the European Parliament, A Public Opinion Monitoring Study, September. http://www.europarl.europa.eu/at-your-service/files/be-heard/eurobarometer/2018/delivering_on_europe_citizens_views_on_current_and_future_eu_action/report.pdf

Exhibit 5.4 Citizens perception about the need to act against tax fraud at EU level.



Source: Eurobarometer Survey 89.2 of the European Parliament

Considering the broader EU policies, a **fairer corporate taxation by means of more and better administrative cooperation was also among the Commission’s priorities for 2015-2019**. As set out at the start of the Juncker Commission, “[w]hile recognising the competence of Member States for their taxation systems, we should step up our efforts to combat tax evasion and tax fraud, so that all contribute their fair share. I will notably press ahead with administrative cooperation between tax authorities [...]”.¹⁵¹ The fight against tax evasion and frauds, as well as against tax avoidance and aggressive tax planning, is identified as a key element also in the 2019 Annual Growth Survey,¹⁵² to both foster the Internal Market and protect tax revenues, therefore ensuring that enough public resources are available to tackle poverty and inequality and that the tax system is fair to citizens.

Albeit the number of respondents was limited to 25, the findings from the PC confirm the importance of the objectives pursued by the Directive. The near totality of the respondent considers that increasing the Member States’ capacity to ensure that all taxpayers pay their taxes is an important or very important goal. For the other two goals, and namely the reduction of harmful tax competition and the increase in the transparency of the tax planning of companies operating cross-border, more than four fifths of respondents consider them important or very important.

Finally, based on the elements collected about the past and ongoing relevance of the Directive, it can be inferred that there is no sign that its relevance will decrease in the near future. The attention of the EU institutions, and of the public at large, will most likely remain focused on limiting the nefarious effects of unfair tax advantages, harmful tax competition, and profit shifting. Furthermore, the further advances of European integration, including the steps taken or under consideration to achieve a further harmonisation of national fiscal policies, and the cross-border nature of many tax frauds will require more cooperation among national authorities, and thus more extensive and effective exchanges of information. Finally, the progressive digitalisation of taxation, with many Member States exploring the quasi-real time handling of taxpayers’ declarations and transactions, will generate more, better and time-bound data, thus enhancing the usefulness and quality of the AEOI mechanisms put in place by the Directive.

¹⁵¹ Juncker, J.-C., *A New Start for Europe: My Agenda for Jobs, Growth, Fairness and Democratic Change Political guidelines for the next European Commission* Opening Statement in the European Parliament Plenary Session Strasbourg, 22 October 2014

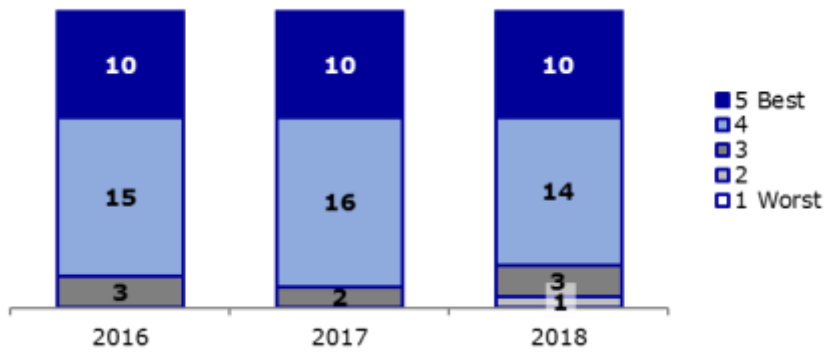
¹⁵² Communication from the Commission to the European Parliament, the Council, the European Central Bank, the European Economic and Social Committee, the Committee of the Regions And The European Investment Bank, *Annual Growth Survey 2019: For a stronger Europe in the face of global uncertainty*, COM(2018) 770, 21.11.2018, p. 11.

5.4 Fitness of the Directive to achieve its objectives

In this section, the evaluation of the relevance of the Directive is concluded by assessing **the extent to which the Directive as a whole and its tools and mechanisms are considered fit to achieve its objectives**.

Exhibit 5.5 below depicts the **tax authorities' perception of the appropriateness of the Directive** as a whole, i.e. first and foremost as a tool to safeguard Member States' tax revenues. The assessment has been constantly **very positive** over the last three years. In 2018, on a scale from one to five – with five being the top grade – 24 Member States have given the Directive's appropriateness a score of at least four. Until 2016, tax authorities were also asked to score the appropriateness of each tool on a yes/no basis and this evaluation was overwhelmingly positive. In 2016, across the various tools, there were two negative opinions or less among the 28 Member States for each tool.

Exhibit 5.5 Tax authorities' perception of the appropriateness of the Directive (number of Member States)



Notes: qualitative rating: 1 – worst to 5 – best
Source: QFD

A similar general appreciation of the appropriateness of the Directive was expressed by the tax authorities in the targeted consultation. As for the specific mechanisms, there were no clear indications regarding the tool considered the most useful. The main message delivered was rather that **the Directive's tools and mechanisms are very different from each other, so that each tool can be the 'most useful' for certain uses**. For instance, for large taxpayers involving potentially significant sums to be recovered, SCs and PAOEs can provide useful insights; yet in order to address a small-scale problem which is widespread in the public at large, the AEOI is more valuable. The usefulness of the tools also depends on the activity at stake: AEOI can be used for awareness-raising campaigns, while, during an audit or in its preparatory phase, an EOIR is more suitable. Taking into account these differences, tax authorities generally commented that **the Directive's toolbox can be considered overall as very useful in fighting cross-border tax evasion, and that the relevance of the specific tools is increased by the fact that they are organised as a menu of options**, from which the Member States are free to choose the one that most suitable to the specific activity or case at hand.

Furthermore, the tax authorities' assessment of the relative usefulness of the tools depends on their experience. In general, **those authorities that use a certain instrument more frequently tend to have a more positive view of its suitability for their needs**, which is another positive indication that, on the ground, the Directive is considered fit for their purposes. This is especially the case for AEOI, as tax authorities of the countries which are more advanced in the use of its data have confirmed that it is very capable to address cross-border tax evasion, and possibly the most useful tool available. Conversely, the officials of countries which have less experience in the use of AEOI data mostly indicated other tools, such as EOIR – which was in any case unanimously considered a very useful tool. The same consideration applies to OFACDT. The tax officials of two countries which have a wide experience with PAOEs consider it very useful

to fit their needs, while a third country's authority, which had never participated in any PAOE abroad, had a more negative view.

With respect to the fitness-for-purpose of, DAC3 and DAC4, most of the tax authorities do not yet have a definite judgment, also due to the newness of the provisions. For DAC3, the tax authorities reportedly access the Central Directory regularly in order to verify whether any information that may be relevant for their country has been added, or on a case-by-case basis when the need arises (e.g. during a tax audit). However, the perceived usefulness of accessing information on foreign rulings is still limited. The opinions on the potential relevance of DAC4 are more positive, albeit there are as of yet hardly any cases where these tools have been tested.

Finally, **the results of the PC confirm a broadly positive assessment of the Directive's fitness to safeguard Member States' revenues**. Indeed, twenty out of the 25 respondents believe that the tools provided by the Directive are appropriate, at least to some extent, to increase Member States' ability to ensure that all taxpayers pay their fair share.

The assessment of the fitness of the Directive mechanisms to the other two general objectives is more nuanced. According to the targeted consultation, **the Directive mechanisms and tools are fit to achieve a greater fairness of the tax system** to a different degree. Indeed, the various mechanisms can help the tax authorities to spot and prosecute natural and corporate persons which have not paid their fair taxes. In this respect, the most significant capacity to ensure the fairness of the tax system resides with the tools targeted at corporate entities, and namely DAC3, DAC4, and partly DAC2. As pointed out in the more recent EU strategies, the fairness of the tax system is endangered more by corporate tax avoidance than by the potential tax evasion of cross-border workers or pensioners. On a different note, the findings from the PC are less positive, as only slightly more than half of the 25 respondents consider that the Directive is capable, at least to some extent, to reduce the incentives for Member States to offer particularly favourable condition to certain taxpayers.

The assessment is similar with respect to the contribution of the Directive's mechanisms to the functioning of the Internal Market. **All the Directive provisions are relevant in theory**, because they seek to protect the proper use of the various Internal Market freedoms, and in particular the freedom of movement of workers, capitals, and the freedom of establishment, by ensuring that all citizens and companies can enjoy a level-playing field within the EU. **In practical terms, the contribution to the functioning of the Single Market is more relevant for the provisions targeted at corporate entities** – again, DAC3, DAC4, and partly DAC2 – since companies are more likely to suffer from the unequal opportunities of MNEs to resort to aggressive tax planning and profit shifting compared to local firms. In the PC, more than two thirds of the 25 respondents consider that the Directive can increase transparency in the tax planning of cross-border economic operators by some extent or more, thus contributing to the proper functioning of the Single Market.

5.5 Summing up

In this Section, the relevance of the Directive was assessed over three steps: first, by analysing how marginal or large the phenomena that it aims to tackle are, i.e. tax avoidance and evasion by individuals gaining incomes or holding assets in another Member State, and corporate tax evasion and avoidance; second, by discussing the Directive's alignment with the needs and priorities of the EU and of the public at large, as they emerge from overarching policies strategies, surveys, and the PC; and third, by considering the extent to which the provisions supported by the Directive are fit to achieve its intended purposes, and to respond to Member States' necessities. Importantly, far from being a universal concept, the Directive's relevance can have different dimensions for the various stakeholders concerned, so that it could be assessed from the point of view of the EU institutions, the tax authorities, and the society at large. **Across all these dimensions, the Directive scores well in terms of its relevance,**

with the marginal exception of the magnitude of some of the problems that it intends to tackle, and the partially changing EU policy priorities over the last decade.

The magnitude of the problems addressed appears to be quite large for DAC3 and DAC4, which focus on corporate tax avoidance. Indeed, the estimates of the revenues lost by the Member States because of this phenomenon reach up to 1.7% of the EU GDP. **The stakes are also significant with respect to the amount of assets held abroad that were reported under DAC2**. These assets represent nearly 5% of the financial assets held by EU households and non-financial corporations. In some Member States, especially small- and mid-sized countries, the share can exceed 20% of these financial assets. On a different note, **the tax base captured by DAC1 AEOI appears more marginal**, as it represents a mere 0.3% of the EU GNI, without major differences across countries. The geographical distribution of EI, PEN and IP flows is consistent with migration and investment patterns, suggesting that DAC1 AEOI is a faithful representation of the underlying economic reality.

The Directive was well aligned with the needs and priorities of the European Union at its adoption. DAC measures have been repeatedly mentioned as one of the most important EU tools for fighting against tax evasion and tax avoidance, foster tax compliance and a fair taxation of all companies and citizens, and these have been steadily among the top priorities for the Commission and EU citizens alike. **Also, through its latest amendments, the Directive remained relevant to EU priorities and needs until today**. In the last communications from the EU, an increasing emphasis has been placed on corporate tax avoidance, on fighting aggressive tax planning, and increasing tax transparency. The inclusion of DAC3 and DAC4 provisions appears fully aligned to this evolution.

Finally, **the appreciation of the fitness-for-purpose of the Directive and its mechanisms and tools is also positive**. The Directive scores very well in terms of its appropriateness to tax authorities' needs, both overall and considering specific mechanisms. The tax authorities commented that a single 'most useful' tool is difficult to identify; rather, they tend to underline their positive assessment of the tools on which they are more experienced. Furthermore, **the tax authorities strongly praise the Directive for providing a comprehensive set of tools and mechanisms for the exchange of information**, from which the tool more fit for the purpose at hand can be selected, and which complement and reinforce each other. With respect to the other general objectives – improving the functioning of the Single Market and promoting fairness in taxation – the entire Directive and all its mechanisms are fit in theory, but in practice those targeted at corporate entities – DAC2, DAC4 and DAC5 – may progressively emerge as more relevant, given that corporate tax avoidance represents a higher priority for the EU and a larger scale phenomenon at present.

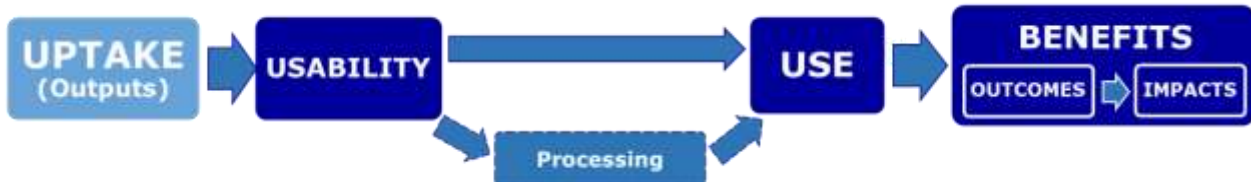
6 EFFECTIVENESS OF ACDT

6.1 Introduction

This section focuses on **the extent to which the Directive has produced its intended benefits**, and in particular the **outcomes** (EQ#3) and **impacts** (EQ#4). In other words, it assesses the extent to which the activities implemented and the outputs produced – i.e. the transposition, implementation, and uptake of the Directive provisions – have translated into actual benefits.

As shown in Exhibit 6.1 below, the Directive can produce its intended outcomes and impacts if the information which is exchanged, as measured by the **uptake** of its provisions,¹⁵³ is **used** by the tax authorities. The capacity to use the information depends, on the one hand, on its **usability** – that is, the quality, timeliness and comprehensiveness of the information exchanged; on the other hand, it depends on external factors such as the political buy-in, the availability of resources, the past technical experience, and the national legislation. The usability of certain pieces of information, particularly those exchanged via AEOI, can be enhanced by certain **processing** techniques, e.g. automatic matching, which can be deployed by the tax authorities.

Exhibit 6.1 Chain of causation: from Directive uptake to benefits



Source: Authors' own elaboration

The following analysis is tailored according to the specificities of the various tools. Namely, the **usability** (discussed in Section 6.2) is relevant for AEOI, EOIR, and SEOI, while the **use** (assessed in Section 6.3) is only relevant for SEOI and AEOI; for the latter, processing also needs to be considered. To the contrary, there is no issue of usability or use for PAOEs and SCs, since these tools consist of direct interactions between the requesting and requested authorities, which are therefore in control of the purpose and quality of the information sought. Section 6.4 provides an assessment of the benefits deriving from the Directive as a whole, i.e. the entire toolbox of ACDT mechanisms, focusing on specific tools whenever possible.

6.2 Usability of the Information Exchanged

The usability of the information exchanged through the ACDT depends on the **quality** of the information exchanged, as well as the **timeliness** of the exchanges. **These elements of usability apply differently across the various tools.** With respect to AEOI (analysed in Section 6.2.1), the quality has to do with (i) the comprehensiveness of the information exchanged, i.e. whether the Member States exchanged data on the possible income and asset classes; and (ii) the availability of the taxpayer identification elements. Furthermore, for AEOI, the timeliness is also considered, since the earlier information is received, the more likely it is that the information can be used for time-sensitive purposes, such as pre-filling of tax returns, or integrated into the risk-assessment covering more recent tax periods. These elements are assessed combining the information from the AEOI statistics and the tax authorities' views, as included in the YA questionnaires. With respect to non-automatic EOI (analysed in Section 6.2.2), the quality is mainly defined based on requesting tax authorities' views and opinions; for EOIR, the timeliness is measured as the share of replies provided within the prescribed timeframe. Both the quality and the timeliness of non-automatic EOI tools are assessed based on the information provided by the tax authorities via the QFD, and on the findings of the targeted consultation.

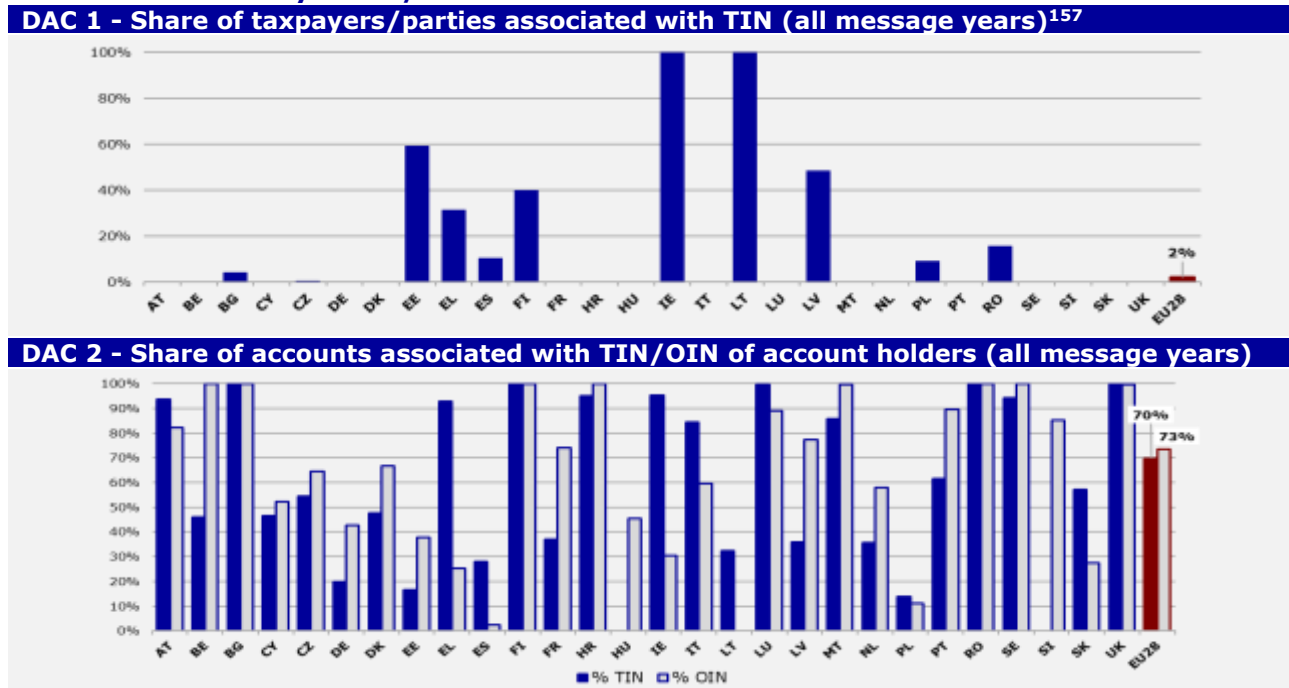
¹⁵³ Cf. Section 4 above.

6.2.1 Automatic Exchange of Information

Availability of taxpayer identification elements (DAC1 and DAC2). The inclusion of one or more taxpayer identification elements in the information exchanged under DAC1 and DAC2 is essential for the receiving Member States to associate the information received with their national taxpayer databases. In particular, the more the information received is well structured, the easier it is to process it automatically, and, therefore, the more it becomes usable. In this respect, the Tax Identification Number (TIN) for natural persons and the Organisation Identification Number (OIN) for legal persons issued by the residence country are considered especially important, as they are conducive to a univocal matching with the national databases, allowing e.g. overcoming misspelling, translation, and transliteration issues, as well as homonymies.¹⁵⁴

The inclusion of the TIN of the country of residence in DAC1 exchanges is subject to its availability to the sending authority. Considering all the information exchanged between 2015 and mid-2017, **only 2% of the taxpayers on which information was exchanged under DAC1 were associated with a TIN issued by the recipient country.**¹⁵⁵ This results from a few countries which exchange a large number of records which include the TIN (up to 100% of the records in Ireland and Lithuania) and a majority of Member States which are never able to include it. **The situation is much more positive for the DAC2 exchanges, for which, in more than 70% of the cases, a TIN/OIN is associated with the reported account,**¹⁵⁶ as the collection of the TIN is compulsory for financial institutions.

Exhibit 6.2 Availability of TIN/OIN



Source: Own elaboration on AEOI Statistics

¹⁵⁴ For instance, several countries (nine in 2017 only) reported having problems with the use of information on the name due to issues with the translation/transliteration of names (e.g. from Cyrillic or other non-Latin alphabet to Latin alphabet) and spelling in general (for instance a stakeholder from Croatia commented that the "Main issues encountered when names and surnames are written in a wrong way. This particularly refers to names written without using specific characters in specific language").

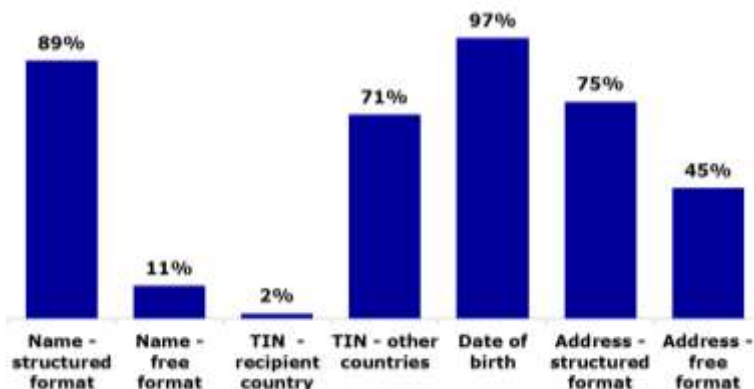
¹⁵⁵ The analysis of the inclusion of the TIN issued by the recipient country, as well as of other identification elements, was carried out on EI, DF, PEN, and IP AEOI statistics, since this kind of information is not included in LIP queries.

¹⁵⁶ Namely, 70% of the accounts whose holders are natural persons are associated with at least one TIN, and 73% of the accounts whose holders are legal persons are associated with at least one OIN. The shares are even higher when considering the account-controlling person, with 82% of the accounts whose controlling persons are natural persons associated with one or more TINs, and as much as 100% of those controlled by legal persons associated with an OIN. The analysis of the share of accounts associated with one or more TIN/OIN is based on queries relating to DAC2-400 (for account holders' details) and DAC2-500 (for controlling persons' details).

¹⁵⁷ Weighted average of EI, DF, PEN, and IP messages, using the number of taxpayers / parties as weight.

DAC1 information is often associated with other identification elements, which may compensate for the absence of the TIN. The name of the taxpayer is available for virtually all taxpayer positions on which information is exchanged. For the largest part, information on the name is available in a structured format, which facilitates the use of automatic matching processes. The date of birth is also available for nearly all taxpayers. On average, about 30% of the taxpayers that were not associated with a TIN are identified through other identification codes (mainly social security or VAT number).

Exhibit 6.3 Share of taxpayers/parties associated with ID elements (DAC 1, all message years)

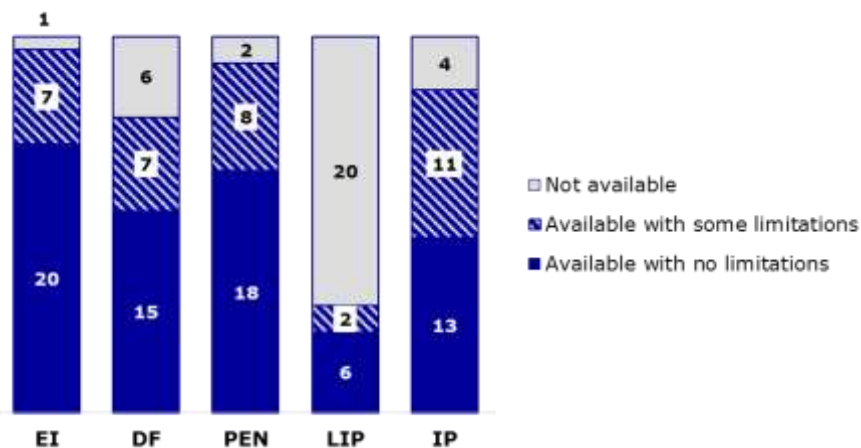


Source: Own elaboration on AEOI Statistics

Comprehensiveness (DAC1). Besides the availability of identification elements, the usability of information received under DAC1 also depends on how comprehensive the information exchanged is. Over the 2015-2017 period, **all Member States exchange information on virtually all the income categories they report having available.** The only exception is that of DF: in a handful of cases, Member States are unable to distinguish between EI and DF, and thus share information on the latter together with other information on personal income.

Even when they exchange information on a certain category of incomes/assets, the comprehensiveness of the information exchanged under DAC1 can be undermined by limitations in the information available to the sending authorities. In fact, the information collected under the national fiscal rules and then made available in the national databases may not be homogeneous. In 2017, **between one-third and one-fourth of Member States sending data about EI, DF, PEN, and LIP reported that the exchanges were affected by some kind of limitation, while the share was much higher for IP** (see Exhibit 6.2 below). The main limitations for the various income categories are as follows:

- 1) **EI:** partial or missing information on the type of employing entity (e.g. private or public), as well as the kind of income paid (e.g. wage, allowance) and the type of tax to which the income is subject (one Member State each);
- 2) **DF:** Member States' inability to distinguish between EI and DF as if they were two different income categories for national taxation purposes;
- 3) **PEN:** the partial or total unavailability of information on the capital value of the pension scheme;
- 4) **LIP:** limited or no information on the policy's capital value and on the payer of the premium;
- 5) **IP:** limited or no information related to loans and loan collateral, as well as on the income generated by the property and the associated ownership details, such as the type of IP owner or the start and end dates of the ownership.

Exhibit 6.4 Comprehensiveness of Information Available to Member States - 2017

Source: Yearly Assessment

Quality of DAC3 exchanges. Given the extremely recent implementation of DAC3 provisions, the Member States have not yet gained sufficient experience with the information received, and thus could not provide a comprehensive assessment of its quality and exhaustiveness. The main issue that emerged, both in the YA and during the interviews with tax authorities concerns the **insufficient level of detail in the ATR/APA summaries** uploaded in the Central Directory. In the YA, one respondent noted that *“there is a need to improve the quality of the summaries of the tax rulings provided by the sending jurisdictions. We have noticed that some countries send summaries containing only 2-3 sentences which are not sufficient to understand the tax ruling context.”* Along similar lines, another Member State’s respondent noted that *“the contents in the field ‘summary’ are often hardly meaningful”*. Finally, a respondent from a third country reported that, when it is identified as an ‘interested country’, the summary did not always include any specific indication about the entity concerned in its territory. This was largely confirmed during the interviews, as most tax authorities found the summary of the ATR/APA available on the Central Directory not adequate to get a sufficient understanding of the ruling itself (*“the summary does not include the most important information”, “there should be more guidance on what to put in the summaries”*). While this is a limitation to the usability of this tool, Member States can either ask for clarifications or require the complete ruling, when the information uploaded is considered insufficient.

Timeliness (DAC1). The timeliness of exchanges can be measured for DAC1, but not for DAC2, due to their recent start (in September 2017). **Since the start of exchanges, DAC1 messages were sent on average 11.6 months after the end of the tax year to which they refer,** (see Exhibit 6.5). This is well within the requirements of the Directive, requiring that countries are to exchange DAC1 information ‘within six months following the end of the tax year of the Member State during which the information became available’,¹⁵⁸ i.e., in practice, up to 18 months from the end of the tax year.

The available evidence shows that the **average time taken to send messages has decreased over time.**¹⁵⁹ While a full-fledged analysis is constrained by the fact that not all the information on tax years 2015 and 2016 has been exchanged at the time of writing,¹⁶⁰ this may be connected to the fact that the management of DAC1 AEOI is likely to have improved over time, which may

¹⁵⁸ Article 8(6)(a), emphasis added.

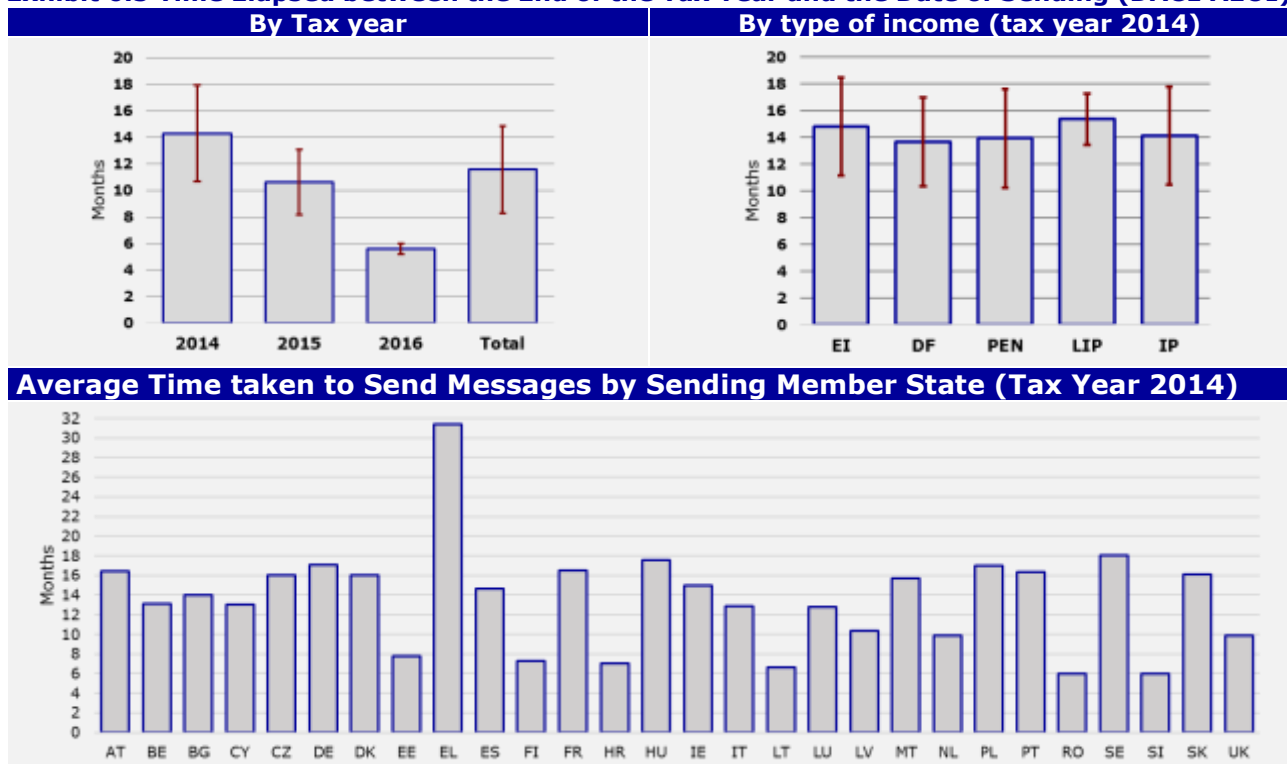
¹⁵⁹ Considering only the messages sent within 18 months from the end of the tax year, the share sent before six months increased from 31% for the messages concerning the tax year 2014, to 45% for those concerning tax year 2015. At the same time, some 18% of the messages concerning tax year 2014 were sent over 18 months after the end of the tax year.

¹⁶⁰ It is possible that the lower average time to send messages is at least partly attributable to the fact that the AEOI Statistics may not include information on all messages for tax year 2015 and, most of all, 2016. This is certainly the case for tax year 2016, as a large share of the messages are likely to have been sent after the compilation of the AEOI Statistics in mid-2017. For 2015, the instances of unrecorded messages are likely to be much lower, but possibly still not negligible.

have led to a reduction in the time required to collect the information, prepare the messages, and send them. This seems to be confirmed, in particular, by the trends in the time required to send the messages by the countries displaying a similar number of messages between 2014 and 2015, thus suggesting that they have exchanged mostly complete datasets. In these cases, the time to send messages has reduced, at times substantially. For instance, in Denmark, the time to send messages decreased from 16 to less than 8 months; Cyprus halved it, from 13 to 6 months, with all messages sent at the same time; Belgium decreased it from 13 to about 9 months.

There is no major difference in the time taken to exchange information across the five income categories. Rather, **the average time used to send messages varies across the Member States, ranging from six to 18 months.**¹⁶¹ An in-depth analysis showed no statically significant correlation between the time taken by Member States to send the messages and the quantity of the information exchanged (i.e. number of taxpayer positions or amounts concerned).

Exhibit 6.5 Time Elapsed between the End of the Tax Year and the Date of Sending (DAC1 AEOI)



Source: Own elaboration on AEOI Statistics. The red line indicates the standard deviation.

6.2.2 Exchange of information other than AEOI

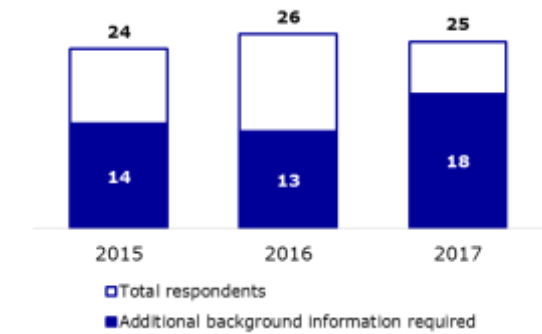
EOIR. Member States show an increasing appreciation for the quality of the information received through EOIR (see Exhibit 6.6 below). Only in the earlier years did the QFD include a few cases of Member States reporting of negative experience with some other Member States. However, the average rating of the quality of the replies received always remained positive across the period. Only seven countries (up from five countries in 2016, and six in 2017) experienced at least one case in which the requested Member State was unable to answer or refused to respond, in most cases due to the inability to locate the taxpayer. the largely positive assessment was confirmed during the targeted consultation, as all tax authorities expressed their satisfaction with the EOIR.

¹⁶¹ With the exception of Greece, sending the information over 30 months after the end of the tax year.

Furthermore, the quality of the information received through EOIR also depends on the quality of the requests. As of 2017, **18 Member States reported having been demanded additional background information** on their requests for EOIR, up from 13/14 in the previous years. This suggests that there could still be a room for improvement in the clarity or exhaustiveness of the requests for information (see Exhibit 6.6).

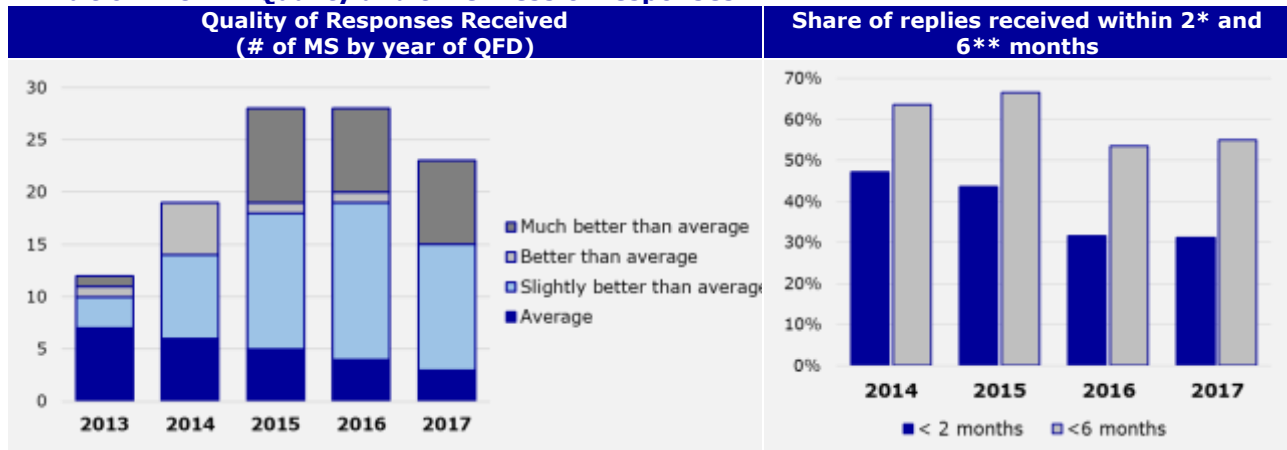
As for the **timeliness of EOIR**, the information available from the CACT Statistics shows that a significant number of replies is received later than the six-month deadline provided by Article 7. Indeed, **as of 2017, only about 55% of the replies were received within six months, and only about 30% were received, in whole or in part, within two months**, with a decreasing trend over time (against no increase in the overall number EOIRs). Consistently with this trend, 18 countries reported in the QFD for 2018 that they received some replies after the time limits. In many cases, the delays seem connected to the complexity of the request. The qualitative appreciation of the timeliness of EOIR by tax authorities – as reported in the QFD – is nevertheless positive and has improved over the period. This may be explained by the fact that the complexity of the requests is perceived as a valid reason for not respecting the six-month deadline (*“the failure to provide the information within the time limits generally results from the complexity of the requests and the difficulty to obtain the information”*; *“in many of the cases the requested Member State sent a message indicating failure to reply within the deadline mainly because of two reasons – either problems finding persons mentioned in the requests or complexity of the audit”*).

Exhibit 6.6 Number of Member States required for additional information on requests for EOIR



Source: QFD

Exhibit 6.7 EOIR - Quality and timeliness of responses



Notes. * Partial or full replies; ** Full replies only
Source: QFD and CACT Statistics

SEOI. There is little information on the quality of the information exchanged via SEOI. In fact, the Member States’ views and opinion on the topic were only requested in the QFDs for 2014 and 2015. In both years **the ratings were positive, with no negative comments**. The only sporadic negative comments concerned the fact that not all countries used standard formats to exchange the information. While this does not prevent the use of the materials received, it may require additional manual work for the information to be usable. As regards the timeliness of exchanges, as of 2017¹⁶² no less than **20 Member States have procedures in place** to identify and exchange information subject to SEOI within the time limit of one month.

¹⁶² QFD 2017.

6.3 Use of the Information Exchanged

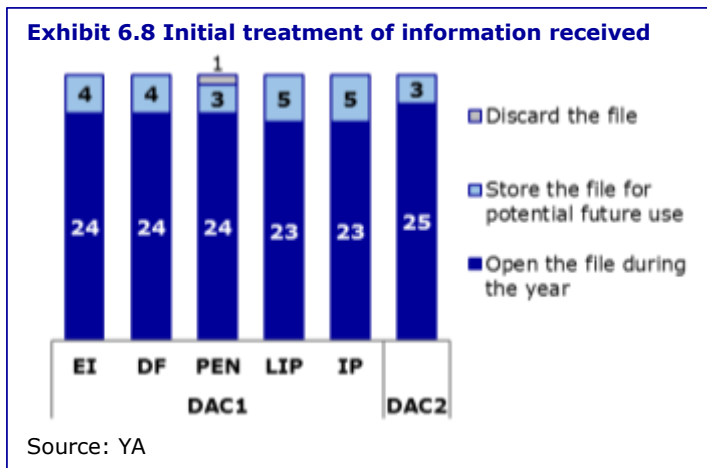
6.3.1 Introduction

This Section presents the analysis of how and to what extent the information received by the tax authorities is used. As explained above, it focuses on the types of exchanges which are not actively sought by the receiving tax authority, namely AEOI and SEOI. On the contrary, it does not apply to the information which is actively requested by the tax authorities via EOIRs, or obtained directly via PAOEs and SCs, because these exchanges are triggered by a specific need of the requesting Member State. Accordingly, Section 6.3.2 deals with the processing and use of AEOI information, Section 6.3.3 with SEOI, and Section 6.3.4 provides an assessment of the complementary use of the various tools and mechanisms of the Directive.

6.3.2 AEOI Processing and Use

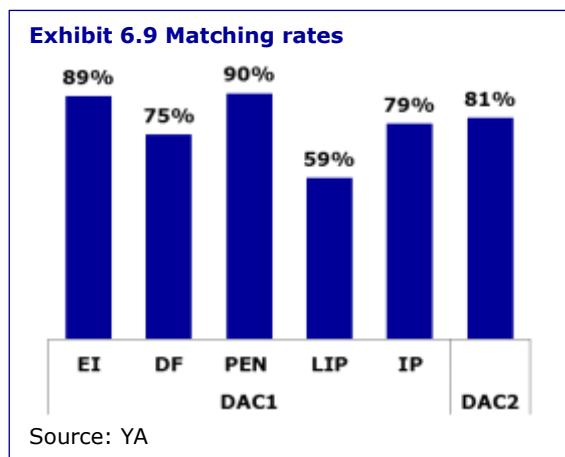
Upon receipt, the records received via AEOI go through a processing phase, of to match them with national taxpayer databases. Then, the information, matched to the extent possible, can be deployed by the tax authorities for various uses. Here below, first the processing of DAC1 and DAC2 information is assessed, followed by an analysis of the various uses of AEOI information.

Processing of DAC1 and DAC2 information.¹⁶³ Upon receipt of the AEOI files, the Member States may: (i) discard the files without opening them; (ii) open the files within the year of receipt; or (iii) store the files for future use. **The large majority of Member States open the files within the year of receipt**, with only minor differences among different types of incomes, and between DAC1 and DAC2. Virtually all countries opening the files then proceed with processing of the entire datasets. In fact, there are only few cases of countries reporting that they make an initial selection of records. This



is, for instance, the case of Italy and Sweden, which reported making an initial selection of DAC2 files, using a combination of thresholds and other criteria. In other cases (e.g. Latvia with DAC1 information), the threshold is applied after a first attempt at automatic matching, before proceeding with more resource-intensive methods. Not all countries systematically process the information received: about one-fifth, after opening the files received, do not match the information, but store the datasets, making them available for searches and queries, or for future uses.

¹⁶³ The analysis presented here is based on the most recent information, i.e. reported in the Yearly Assessment concerning the year 2017.



As of 2017, **20 and 19 countries respectively matched the information received via DAC1 and DAC2 with the national taxpayer databases**, either as a whole or in part. The matching process can be automatic,¹⁶⁴ i.e. using some software or algorithm, or manual.¹⁶⁵ Overall, the **share of information successfully matched ranges between 90% in the case of EI and PEN, and 59% in the case of LIP** (see Exhibit 6.8). **Matching rates for DAC2 were also quite high, with an average of 81%.**

The matching rates vary considerably across countries, with a positive trend over time. In the case of EI, DF, and PEN, in 2017 about half a dozen

Member States (the Baltics, Poland, Slovenia and Belgium) achieved a perfect or near-perfect matching for at least two types of incomes/assets. The interviews with tax authorities underlined, **the accuracy of matching improves over time, thanks to a learning process built into the algorithms**, which can rely on the repeated exchanges of and interactions, e.g. about the same taxpayers.

The accuracy of information processing is likely to improve in the following years.

Several tax authorities reported that, so far, the resources available for ACDT, and particularly for AEOI, were dedicated to building the infrastructure and preparing the exchange of information. In the near future, the focus, and thus the resources, are being and will be shifted towards processing and handling the information received. In a nutshell, most of the national tax authorities are still climbing the learning curve, and it is thus likely both the intensity and the quality of the processing will increase, thus leading to higher matching rates.

Use of DAC1 information. As of 2017, **21 Member States reported using DAC1 information in their tax assessment process, with a positive trend since 2015.** Three Member States, namely Denmark, Ireland, and the UK, started using the information received in 2016, while a dozen countries added one or more uses over the three years. There are **no major differences in the uses made of information under the various income categories, with the exception of LIP**, which is systematically less used than the other income types. In 2017, the information not used accounted for 30% of the total number of taxpayers covered by DAC1 exchanges and 21% of the overall value.¹⁶⁶ This value has halved in comparison with 2015, when nearly half of the volume exchanged remained unexploited.

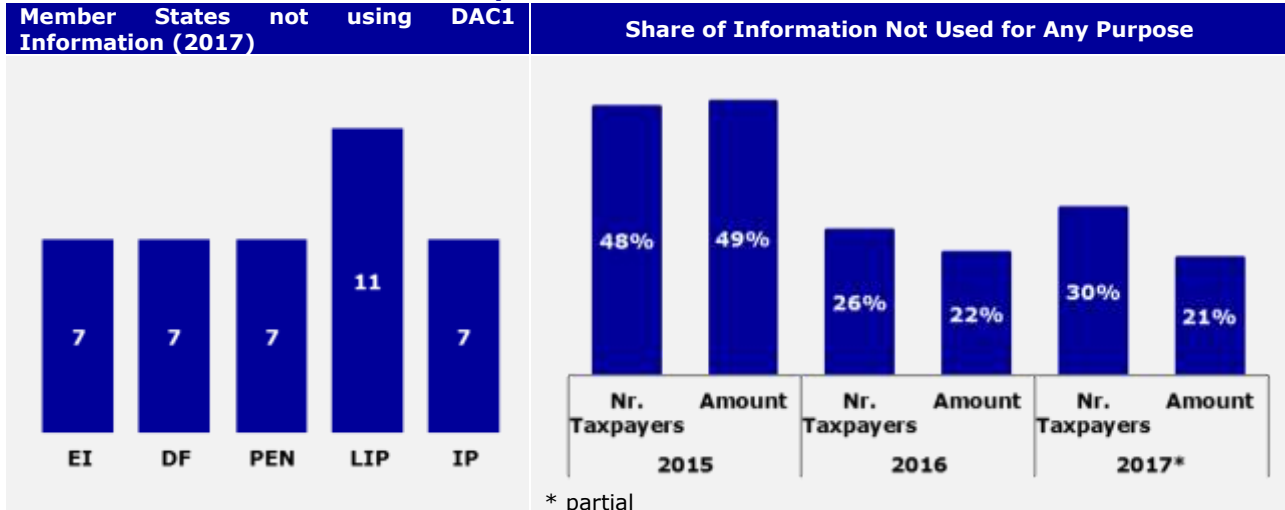
The evidence seems to suggest that the DAC1 information is far from being used at their full capacity. In many cases, countries reported that they have only recently started to actually use this information, having previously focused on complying with the Directive's evolving requirements. This was particularly true for 2015, which may explain the big decrease in the non-use of information shown for 2016 in Exhibit 6.10 overleaf.

¹⁶⁴ In the case of automatic matching, a further distinction is made between: (i) the automatic matching with exact information ('exact matching'), which typically requires the inclusion of identification elements of the receiving country's TIN, and (ii) the so-called 'fuzzy matching', which results in an incomplete or approximate matching.

¹⁶⁵ This usually is a residual method, employed for the records for which the automatic matching is not successful.

¹⁶⁶ In order to assess the implications of reported non-use, the information from the Yearly Assessment was matched with the AEOI Statistics of the corresponding year. The estimates concern the information that was certainly not used across the Member States and income/asset categories; however, the available data do not allow identifying cases of partial uses (e.g. an extraction of a sample of DAC1 records for information campaign purpose).

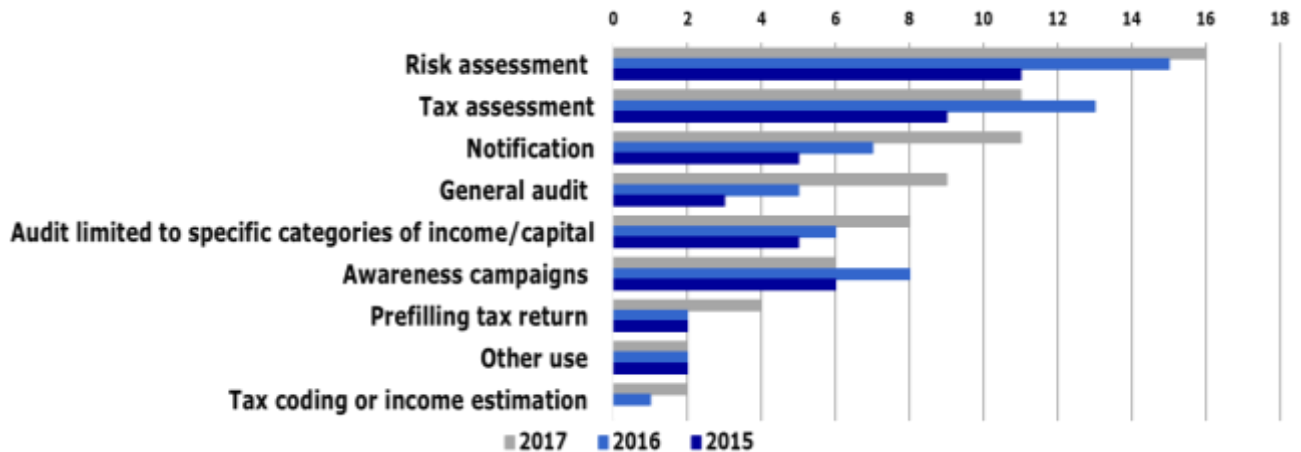
Exhibit 6.10 Information Not Used by Member States



Source: Yearly Assessment and own elaboration on AEOI Statistics.

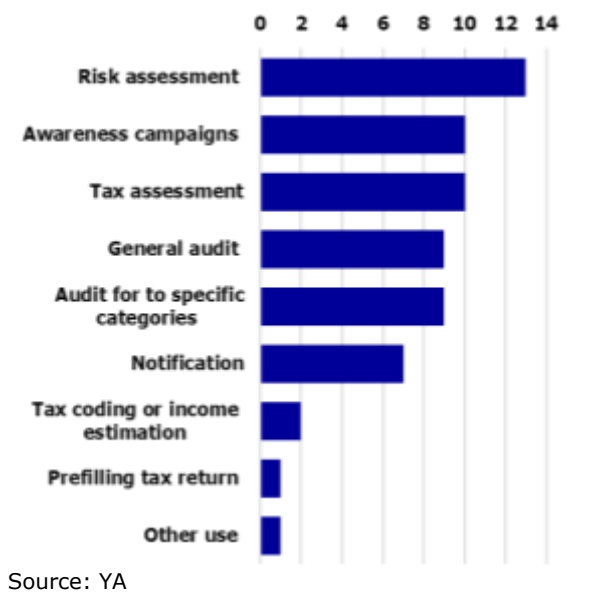
Risk assessment and tax assessment are the most common uses for the information received, with 19 of the 21 countries using DAC1 information reporting either of these two uses in 2017, as reported in Exhibit 6.11 below. The use of the information for notification purposes has grown substantially since 2015, and it was used by 11 countries in 2017. The information has also been increasingly employed for audits, both general and specific ones, and for awareness raising purposes. On the contrary, DAC1 information is resorted to for the estimation of future income and applicable taxes in very few countries. Although showing a slight increase over the years, the use of information for the pre-filling of tax returns takes place in only four Member States.¹⁶⁷ This also depends on the fact that, as discussed in Section 6.2.2 above, DAC1 data are received roughly one year after the end of the fiscal year of reference. This is too late for a number of uses, particularly for the pre-filling of tax returns, which is typically carried out in the first semester of the subsequent year.

Exhibit 6.11 Use of DAC1 Information by Type of Use - 2015 – 2017



Note: use of information for at least on category of incomes/assets
 Source: Yearly Assessment

¹⁶⁷ The interviews with tax authorities clarified that, in at least two cases, rather than referring to an ex-ante compilation of tax returns for taxpayers, Member States ticked this type of use when the information was employed for an ex-post comparison of the tax returns compiled by taxpayers (these cases were excluded from the information reported in Exhibit 6.10).

Exhibit 6.12 Use of DAC2 Information by Type of Use -2017

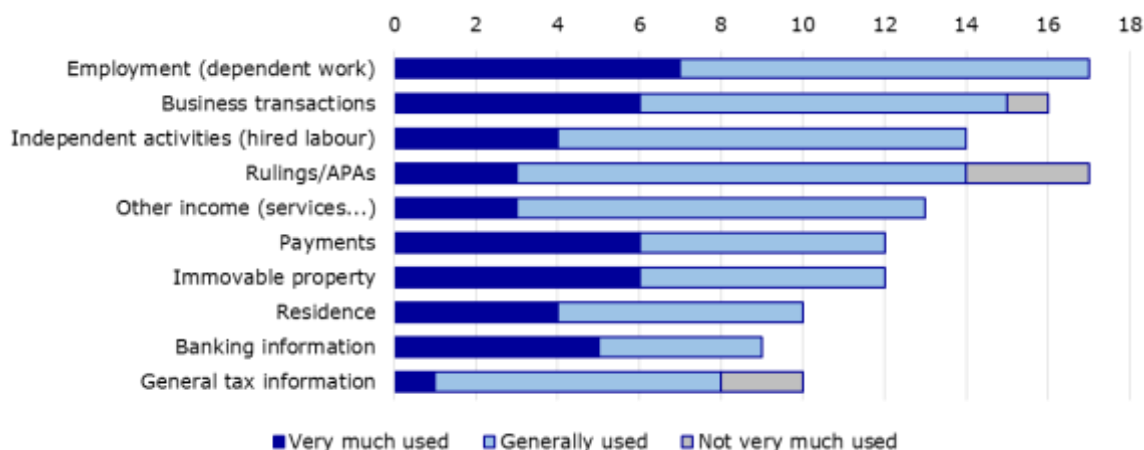
Use of DAC2 Information. A lower number of Member States used DAC2 information in 2017, compared to DAC1. However, the pattern is comparable to that occurred in the first year of DAC1 exchanges, which suggests that some countries may have had a slow start in using such information. Nine countries reported not using the information received via DAC2 at all. Among them, five countries (Bulgaria, Germany, Luxembourg, Malta, and Slovakia) also did not use the information received under DAC1 during the same year. Italy, a limited user of DAC1 information, reported using DAC2 data, albeit only for awareness campaigns. However, when combining the information from the questionnaires and the data from the AEOI Statistics, **it seems that the share of information remaining unused is lower for DAC2 than for DAC1**, relating to 27% of the accounts and 12% of the overall amounts.

In terms of types of uses, the situation is not dissimilar to DAC1, **with risk assessment being the most common use of DAC2 information, followed by tax assessment.** Numerous Member States also reported using the information for awareness campaigns and for notification purposes. In terms of use by tax areas, information on personal income tax is the most common use of DAC2 information, followed by information on company tax.

Use of DAC3 and DAC4 Information. Very little information is available on the use of DAC3 and DAC4 information, mainly due to their recent implementation. Predictably, **DAC3 information is mostly used in the area of corporate taxation**, even though a few respondents also mentioned personal taxation. As for DAC4, the targeted consultation showed that the infrastructure and technical solutions for using the information received were still being developed or had only recently been completed. **The Member States use and/or intend to use both DAC3 and DAC4 information mainly for high-level risk assessment.** Notably, there seem to be high expectations as regards the potential use of DAC4, with several tax authorities having created dedicated working groups, with staff from different departments, in order to discuss the possible procedures and utilisation.

6.3.3 Use of Spontaneous Exchange of Information

The assessment of use is of relevance for SEOI, since not only are these exchanges not specifically requested, but, unlike AEOI, are also unsystematic and unforeseeable, unlike AEOI. Nevertheless, the available information suggests that **Member States do use the information obtained via SEOI, particularly when concerning EI, business transactions, other types of income, as well as tax rulings** (see Exhibit 6.13 overleaf).

Exhibit 6.13 Use of SEOI information by category of information - 2018

Source: QFD 2018

The interviews with the tax authorities suggest **that SEOI acts as a 'trigger' for further investigation**. For instance, the official from one Member State mentioned situation in which they received large files through SEOI which were then processed and analysed similarly to what is done for AEOI by validating data and matching them with national taxpayer databases, and then used for risk assessment. Another tax authority stated that "SEOI can be a good starting point for tracing tax evasion, because the information is provided by another country for a specific taxpayer which could not pay their full taxes in his/her residence country."

6.3.4 Complementarity among ACDT provisions

More often than not, the instruments supported by the Directive are not used in isolation, but rather as a sequence of **interconnected and complementary actions**, as the various tools complement, trigger, and reinforce each other. In the words of a tax authority official, "AEOI often generates EOIR. The more you use these tools, the more tax authorities become aware that they exist, and that leads to more SEOI. At the same time, the use of the information for risk assessment leads to an investigation, which in turn may generate the need for a SC, or a PAOE. These tools cannot be seen as separated; they rather function because they complement each other". Consistently, in the YA for 2017, 11 Member States reported that they had followed up on the information received via DAC1 AEOI with one or more EOIR request.

Having a 'toolbox' – rather than separate individual tools – makes it possible to implement the appropriate action depending on the case at hand. For instance, one Member State tax official reported that "when possible, we use EOIR, as we have more experience with it – we have been using it for a long time, and it is by far the easiest way [...]. However, it is not always effective. For instance, we could use EOIR to verify the validity of invoices during an ongoing audit. If the case is more complicated, but the verification does not affect the interests of the other Member State, then we choose a PAOE. If it is better to audit the company, and the other Member State tax revenues may also be affected, then we go for a SC".

The complementarity of the ACDT tools also emerged from the mid-term evaluation of the Fiscalis 2020 Programme: "In comparison to PAOE – which is seen as a tool for quick and targeted exchange – [SCs] are more of an administrative process involving several meetings and requests for information. Countries with experience of using both, say that PAOEs can lead to SCs when an initial request turns into a broader case [...]. In other words, PAOE and [SCs] are sometimes complementary. Both are important tools, although PAOE is not as known of and widespread as SCs."¹⁶⁸

¹⁶⁸ Oxford Research and others (2019), Mid-term evaluation of the Fiscalis 2020 programme - final report (hereinafter, the 'Fiscalis 2020 mid-term evaluation'), at p. 233. Available at <https://publications.europa.eu/en/publication-detail/-/publication/c9c68539-33f7-11e9-8d04-01aa75ed71a1/language-en/format-PDF/source-91845306>

While the complementarity of the instruments supported is one of the key strengths of the Directive, **it complicates the attribution of outcomes and impacts to a single tool**, as the countries may have obtained an additional tax assessed through a combination of different ACDT, or in combination with non-ACDT mechanisms.

6.4 Benefits of the Directive

6.4.1 Introduction

This section deals with the benefits produced by the Directive. In particular Section 6.4.2 analyses whether and to what extent the Directive resulted in additional tax assessed by the Member States; Section 6.4.3 discusses whether and to what extent a deterrent effect was generated, thus affecting the taxpayers' behaviours towards and increasing spontaneous compliance; and Section 6.4.4 provides an assessment of the other benefits.

The assessment of the benefits due to the Directive is a complex exercise, facing limitations. First, **the very recent implementation of several provisions on AEOI prevents a proper assessment of their effects**. In fact, the benefits from ACDT take time to materialise, as tax authorities need to familiarise themselves with the new tools available, to implement data treatment procedures, and to follow-up with audits, investigations, or awareness campaigns. These actions then take time to generate additional tax assessed, and even more so for the tax to be actually recovered. For AEOI, this constraint limits the analysis of the effectiveness of the AEOI provisions from DAC2 onwards, but also DAC1 exchanges are still in the process of being put into full use, as discussed in the previous sections.

Second, the exercise is affected by substantial **attribution problems**, both among the Directive's tools and with respect to other fiscal policies. As discussed in Section 6.3.4 above, ACDT provisions are highly complementary, making it difficult to disaggregate the benefits with respect to the contribution of the various instruments. More importantly, the tax authorities often find it complicate to distinguish between the results obtained because of the Directive and those resulting from similar activities carried out under the umbrella of other EU legislation (e.g. VAT cooperation or the Recovery Directive), or international agreements with non-EU countries. This is clearly the case, for instance, for DAC2/CRS exchanges, which occur, with only minor differences, both among EU Member States and with non-EU jurisdictions.

Finally, the tax authorities reported that they are often **unable to record and earmark all results obtained through ACDT activities**. This may be due to the methodologies currently used to keep track of the outcomes of international cooperation. For instance, one tax authority reported that their estimates are based on the feedback, which is actively collected from local tax officers, concerning the use of information retrieved via the Directive tools. While the feedback allowed estimating a number of benefits directly attributable to the ACDT, the data collection is not systematic. Another tax authority reported that the internal IT system, in which the results of audits are recorded, offers the option to flag 'international cooperation activities' as a source of information, without distinguishing the specific instrument used or the EU or non-EU dimension of the cooperation.

6.4.2 Incremental tax assessed

6.4.2.1 Introduction

Information on the incremental tax revenues associated with ACDT was provided by Member States in the YA questionnaire (for AEOI) and in the CACT Statistics (for all other forms of ACDT). In both cases, the information is not homogeneous, as reference is made to different notions of tax revenues. To begin with, the questionnaire makes reference to 'additional revenue or increase in assessed tax'. However, the two concepts are somewhat different as the 'additional revenue' refers to taxes actually collected whereas the 'increase in assessed tax' refers to an ex ante concept, as the assessed tax may or may not be actually collected in the future. The tax collection may indeed take place at the end of the administrative procedure through which the missed payments of certain amounts are assessed by the taxpayers, who have the possibility to appeal in courts or to settle for payment of a lower amount. During the targeted consultation, it emerged that the tax authorities mostly referred to additional tax assessed, which can be explained by the limited time elapsed so far and may not have allowed conclusion of the recovery proceedings. For this reason, this kind of benefits is uniformly referred to as 'additional tax assessed' throughout the analysis.

Secondly, in answering the questionnaire, some respondents made reference to yet another notion of benefit, namely the increase in the tax base, i.e. in the values of incomes/assets that are potentially subject to taxation. The additional tax base cannot be automatically converted into additional tax assessed – let alone collected – as it depends on the tax rate, which varies across Member States, levels of incomes, and tax bases, and on the extent to which the same amount was already taxed in the Member State where it was originated, as the Member States usually have in place bilateral tax treaties preventing double taxation.¹⁶⁹ Obviously, **the use of different notions of tax revenues complicates the comparison across countries.**

6.4.2.2 Automatic Exchange of Information

The evidence on the incremental tax assessed resulting from tax verifications triggered by DAC1 is limited. Due to the short time horizon, only few Member States were able to fill in the relevant sections in the YA questionnaire. In some cases, the information is broken down for the various categories of incomes/assets subject to AEOI, while in others only aggregate figures are provided. The available evidence derived from the YA questionnaires is summarised in Exhibit 6.14 below.

Exhibit 6.14 Incremental Tax Assessed from DAC1-related Actions (€ '000)

Member States	Year	EI	DF	PEN	LIP	IP	Total
Increase in Tax Base							
Belgium	2017 ¹⁷⁰	148,593	..	105,837	33	40,040	289,470
Finland	2017	..	..	..	..	..	29,000
Total	2017	..	..	..	..	..	318,470
Increase in Assessed Tax							
Estonia	2016	..	..	..	..	..	320
	2017	..	..	..	..	..	417
Poland	2015	87	0	3	0	0	91
	2016	830	0	39	0	2	870
Slovenia	2017	1,108	1	390	0	19	1,519
	2016	329	0	495	0	7	830
Total	2017	1,373	0	2,259	5	13	3,650
	2016	..	..	..	..	..	2,850
	2017	..	..	..	..	..	9,236

Source: Yearly Assessment

¹⁶⁹ In replying to the YA, Finnish authorities noted that DTT-related exemptions are fairly common ("we don't have detailed statistics, but in nine cases out of ten some form of exemption seems to apply").

¹⁷⁰ The information was provided in 2017, with reference to the tax years 2014 and 2015.

The available information suggests the following four observations:

- Unsurprisingly, the **figures related to increases in the tax base are incomparably higher than those referring to increased tax assessed**. Indeed, the figures reported by Belgium (about € 290 million over three years) and Finland (€ 29 million) are a multiple of the values reported by the other countries, which, in 2017 range from a mere € 400,000 (Estonia) to € 3.5 million (Slovenia).
- **Increases in the tax base also include amounts that are not subject to recovery**, e.g. because they were already taxed in the countries in which incomes were earned and, given the common prohibition of double taxation, will not be taxed again in the country of residence. In the case of Belgium, it can be roughly estimated that the increased tax assessed is in the order of 25% of the additional tax base. In practice, this translates into an incremental tax assessed of € 70 – 75 million over a couple of years. No estimate is available for Finland, but the situation appears to be similar. The € 29 million increase in the tax base estimated therein also concerns the effects of information received on the basis of double tax treaties with non-EU countries, namely the US and Canada.
- The information provided by the Member States reporting for more than one year indicates an **increase over time in the amount of additional tax assessed**. In particular, additional taxes assessed in Poland rose from around € 90,000 in 2015 to some € 1.5 million in 2017, mainly thanks to an increase in the volume of information received from foreign authorities, and to a growing awareness among tax officials about the possibility to use AEOI information. An increase was also recorded in Slovenia, where values have more than quadrupled in one year (from € 800,000 in 2016 to € 3.5 million in 2017), while a smaller increase was recorded in Estonia (from € 300,000 in 2016 to € 400,000 the subsequent year).
- Irrespective of the measure used, **the bulk of the benefits are due to exchanges of information on EI and PEN**. Indeed, in 2017, EI and PEN cumulatively accounted for 86% of the increase in the tax base in Belgium, the rest being IP. In the same year, in Poland and Slovenia, EI and PEN cumulatively accounted for 99% of the additional tax assessed. Overall, very low benefits are reported for DF and LIP (e.g. in 2017, € 1,480 for DF in Poland and € 5,150 for LIP in Slovenia). This is fully consistent with the predominance of information exchanges for EI and PEN shown in Section 4 above.

The paucity and the limited comparability of the information does not allow for any general conclusions regarding the magnitude of AEOI benefits. Subject to this caveat, the limited evidence available suggests that **DAC1 exchanges did generate an increase in assessed taxes**. At the same time, the growing trend in the figures reported by some Member States suggests that tax authorities are progressively making a better use of the information exchanged which in turn is **indicative of possible further increases in the future**.

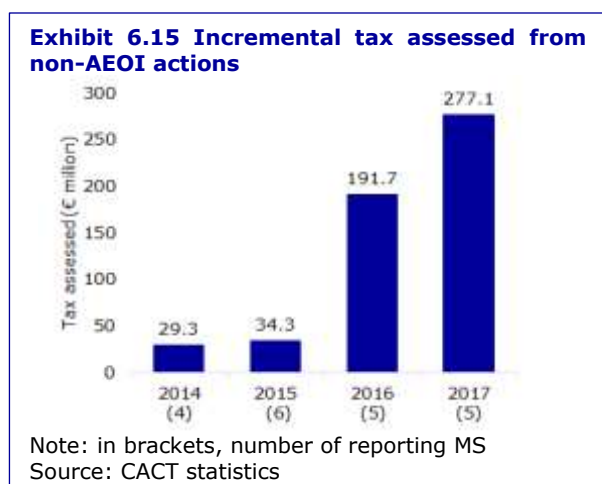
The incremental assessed taxes associated with DAC1 exchanges were compared with total tax revenues on individual and household incomes, and, in line with the information available on the magnitude of the problem at stake, the ratios are limited.¹⁷¹ In the case of Poland, Estonia and Finland, the incidence is quite low, as the DAC1-related incremental tax assessed accounts for 0.01% of total tax revenue for Poland and 0.03% for both Estonia and Finland. In Belgium, the incidence is marginally higher at about 0.07%. More positive results have been achieved in Slovenia, where the additional tax assessed generated by DAC1 exchanges accounts for 0.17%.

¹⁷¹ Information on total tax revenues was taken from Eurostat, Main national accounts tax aggregates, 28 November 2018. In particular, reference was made to taxes on individual or household income in 2017 (millions of euro). In the case of Belgium, for which only a global estimate for two years is available, the comparison was made based on a € 35 million annual value. For Finland, the same 25% discount factor was applied resulting in an increased tax assessed of € 7.25 million. Another comparison could have been carried out between AEOI benefits and taxes paid by tax residents on incomes earned / assets held in another Member State, but such a data series is not available.

As regards the other forms of AEOI, including **DAC2, DAC3, and DAC4** exchanges, given the very recent implementation, the Member States were not in the position to provide – neither in the YA, nor during interviews – any information on the possible results of subsequent tax verification activities. Little information is available from other sources, as the topic has not yet been extensively analysed in the literature.¹⁷² Reportedly, the DAC3 exchange of information on tax rulings under also has the potential to generate substantial benefits. Indeed, the review of ATR/APA, particularly when combined with the analysis of CbCR exchanged under DAC4, is likely to lead to the launch of highly targeted tax investigations with the potential to bring considerable returns,¹⁷³ especially since they typically concern large corporate taxpayers. Overall, based on the limited information available at this stage, it can only be concluded that these forms of exchange of information have the potential to generate incremental tax revenues. However, **the magnitude of these benefits remains to be ascertained.**

6.4.2.3 EOIR, SEOI, and OFACDT

Over the 2014 – 2017 period, only six Member States provided quantitative information on the estimated increase in tax assessed due to EOIR, SEOI or OFADCT¹⁷⁴ for at least one year; and only two countries (Germany and Poland) provided this information for the whole period. Since EOIR, SEOI, PAOE and SC have been in use for quite some time, the inability to produce estimates cannot be attributed to the novelty of the instrument (as in the case of AEOI), but rather suggests **the existence of structural problems in tracking and assessing the benefits of ACDT.**



The additional tax assessed across the Member States for which data are available increased significantly over the years, from € 29 million in 2014 (reported by four countries) to € 277 million in 2017 (reported by five countries). Over the whole period, **the additional tax assessed by the six Member States is in the order of € 532 million.** Once again, **there are major differences among Member States.** The total figure, as well as the trend over time, are highly influenced by the values reported by Sweden, which alone accounts for nearly 80% of the total. In Germany, values show an oscillating trend, dropping from nearly € 20 million in 2014 to just € 4-6 million in 2015-2016 and then increasing to almost € 50 million in 2017. Poland displays a declining trend from some € 10 million in 2014 to € 0.5 – 1 million in the subsequent years. Significant benefits were also declared by Lithuania, where they reached over € 20 million over the four-year period. However, this is mostly attributable to a jump in 2017, when EOIR activities alone were reported to have yielded more than € 19 million, i.e. 80% of the total over the period. Finally, Bulgaria and Estonia report much smaller values, in the order of € 0.4 – 3 million for the whole period.

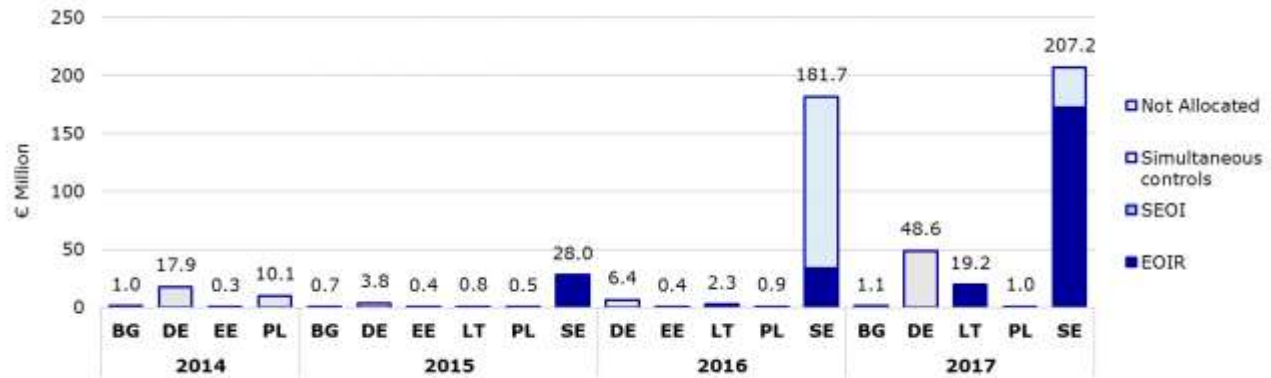
¹⁷² A rare exception is a study reviewing the implementation of CRS/DAC2 and FATCA in half a dozen countries published at the end of 2017. Based on interviews with selected stakeholders, the study identified some problems in the usability of the data exchanged, which are expected to affect the work of tax authorities. Accordingly, the study reports the view of some interviewees that “*too high hopes have been placed on CRS and FATCA*”. Cf. Finér L and A Tokola, *The Revolution in Automatic Exchange of Information: How Is the Information Used and What Are the Effects?*, Bulletin for International Taxation, 10 November 2017 (hereinafter, the ‘AEOI 2017 Study’).

¹⁷³ An indication of the amounts potentially at stake can be derived from the Commission Decisions on state aid adopted in recent years. For instance, in the Amazon case, the amount of illegal tax benefit granted was € 250 million. See Commission Decision on state aid SA.38944 implemented by Luxembourg to Amazon, 4 October 2017.

¹⁷⁴ The CACT statistics enquire about ‘additional revenue or increase in assessed tax’. As explained, following exchanges with the MS authorities, this should be mostly intended as additional tax assessed.

Focusing on the contribution by type of instruments, nearly half of the incremental tax assessed is generated by EOIR, while another 35% is attributable to SCs. On the opposite side, SEOI represents less than 0.5% of incremental tax assessed, possibly because it may be more difficult for tax authorities to link the tool to its benefits.¹⁷⁵

Exhibit 6.16 Incremental Tax Assessed from Non-AEOI Actions – General Trends 2014 - 2017 by Member State and type of activity



Source: CACT Statistics

The figures on estimated additional tax assessed due to EOIR, SEOI and SC activities in 2017 have been compared with data on income tax.¹⁷⁶ For Germany, Bulgaria and Sweden, the resulting incidence is rather low, as the share of incremental tax assessed over the total tax revenue is at, respectively, 0.01%, 0.04% and 0.2%. The percentage is even lower for Poland, accounting for just 0.003% of its total tax revenue. Higher figures have been attained for Lithuania, where the EOIR, SEOI and SC-related incremental tax assessed accounts for nearly 1% of the total revenue.

6.4.3 Deterrent effect

The general awareness of an increasingly better cooperation among tax authorities may have a deterrent effect on taxpayers, thus increasing their spontaneous compliance. In particular, the automatic and systematic exchange of information on standardised categories of information (particularly DAC1 and DAC2) has a high potential in this respect, since it can be regarded as a sort of **third-party certification**.

In certain cases, tax data are subject to third-party certification, meaning that the information provided by the taxpayer can be cross-checked with other sources, as it is the case with national employers reporting income from employment, or pension companies reporting pensions, etc. The AEOI tools can work as a third-party certification, since the taxpayer has to provide data about his/her foreign incomes or assets, which can then be verified based on the data received from the other Member States. The availability of third-party certification is well known to exert a **deterrent effect, inducing taxpayers to file more faithful declarations**. For instance, studies carried out in the US by the Internal Revenue Service (IRS) show that incomes subject to little or no third-party information reporting (such as farming income or rents) display a 63% misreporting rate, compared with a mere 7% misreporting for incomes subject to substantial third-party information reporting (such as dividend and interest income and pensions).¹⁷⁷

¹⁷⁵ Two countries, namely Germany and Poland only report the aggregate value, while the others are able to provide values based on the form of cooperation.

¹⁷⁶ The data on tax revenues were retrieved from Eurostat, Main national accounts tax aggregates, 28 November 2018. Specifically, the sum of current taxes on income, wealth and other taxes and of capital taxes in 2017 was taken into account (millions of euro).

¹⁷⁷ See GAO, Tax Gap - IRS Needs Specific Goals and Strategies for Improving Compliance, October 2017. It is worth noting that the study refers to third-party information in a domestic context. In the case of foreign incomes, since they are typically self-reported, it is plausible to assume a higher rate of misreporting. This is not necessarily the result of fraudulent behavior, as certain factors (e.g. the tax base for the income/asset may be different than domestically, the detailed information may come too late from abroad, etc.) may increase unintentional non-compliance.

Little evidence is available on the magnitude of this effect in the context of the ACDT, due to both the recent implementation of AEOI provisions and the intrinsic difficulties in quantifying behavioural changes. Nonetheless, several **Member States seem to have already started taking advantage of the possible deterrent effect of AEOI provisions** in this sense, particularly by increasing awareness on the existence of DAC1 and DAC2 exchanges and through targeted actions towards interested parties.

Level of awareness of taxpayers. The stakeholders seem to have somewhat **divergent experiences and opinions as regards taxpayers' level of awareness concerning DAC1 and DAC2**. Views were solicited from representatives of taxpayers' associations and tax advisors. The interviewees suggest an **increased awareness among the concerned taxpayers** – rather than in the public at large – that the information about their foreign incomes/assets can now be easily accessed by tax authorities. The results of PC carried out for this Study, while far from being statistically representative, suggest that there may indeed be a significant share of the taxpayer population still unaware of the fact that tax authorities exchange information on incomes gained and assets held abroad. A quarter of the (few) taxpayers responding to the PC were not aware of DAC1 and DAC2 exchanges, and only half of them believed that most taxpayers would know about the existence of these provisions. Much in same vein, only one of the seven providers of tax accountancy services participating to the PC thought that few of their clients were aware of AEOI on incomes and assets, while two more believed that all of their clients were aware.¹⁷⁸

According to some of the stakeholders participating to the targeted consultation, the increase in the awareness is relatively more attributable to a growing attention paid to tax fraud by the media, and only marginally due to information campaigns deployed by tax authorities. Few tax authorities would confirm this view, mentioning that they perceive the level of awareness as having grown, mostly because of the media coverage of cross-border frauds. At the same time, they point out that more attention should be paid to promoting the awareness of the public at large via communication campaigns. Finally, **views are less uniform regarding the implications of greater awareness**, i.e. whether it then triggers a deterrent effect, and the magnitude of the latter.

Targeted actions. A number of targeted actions based on the DAC1 and DAC2 data were already initiated by the tax authorities with the objective of **increasing spontaneous compliance by the taxpayers**. One Member State has already started using DAC1 and DAC2 information for signalling, in the tax returns, that the taxpayer needs to provide information about his/her foreign incomes and assets. Even when details on the amounts concerned are not available at the time of the preparation of tax returns, the taxpayer is invited to make a preliminary declaration of the relevant amounts. Failure to do so automatically flags the tax return as risky. The tax authority reported that an increase in the voluntary disclosure of foreign proceedings has already been noticed, although a full-fledged measurement will be carried out in the coming years. Another Member State reported that, in December 2017, a campaign was conducted based on the first round of AEOI on financial assets. Based on the discrepancies between the information received through DAC2/CRS and what was reported in the tax returns, letters were sent inviting taxpayers to engage in compliance. The initiative is still in the preliminary phase (for instance, the process needs to be improved to exclude 'false positives'), and information on the results is not yet available. However, based on what was reported by the tax authority, a substantial share of the taxpayers contacted voluntarily amended their tax declarations. Similarly, a third Member State reported that a similar initiative was already carried out with financial information received under FATCA: whenever discrepancies emerged, the taxpayers were contacted for clarifications before proceeding with a full-fledged tax audit, and invited to correct their tax files.

¹⁷⁸ For more details on the results of the PC See Annex A.

The existence and importance of the deterrent effect connected with the AEOI mechanisms, in particular for financial assets, is a recurrent theme in OECD/G20 publications and was also frequently mentioned during interviews with representatives of NGOs active in tax transparency issues. The evidence typically offered in support of this argument relates to the results achieved by **Offshore Voluntary Disclosure** (OVD) or **tax amnesty** programmes launched in connection with the oncoming stream of AEOI initiatives. The information available on three such programmes launched in EU countries is presented in Box 7.3 below, which also includes information on one OVD facility not specifically linked to AEOI.

Box 6.1 Results Achieved by OVD Programs

OVD Programs linked to AEOI

France. France launched an OVD initiative in June 2013.¹⁷⁹ The timing of the programme, commonly known as *Régularisation Cazeneuve*, coincided with the announcement of the future entry into force of the exchange of financial information under OECD's CRS, which was regarded as an important factor to incentivise compliance.¹⁸⁰ The programme was regarded as highly successful: as of mid-2017, tax authorities had received some 51,000 applications and assets worth some € 32 billion had been declared, yielding an incremental tax revenue of some € 8 billion, of which about € 6 billion for overdue taxes and € 2 billion for penalties.

Italy. Italy launched an OVD at the end of 2014,¹⁸¹ virtually in parallel with the adoption of the amendment to the Directive introducing DAC2 provisions. The operation was closed at the end of November 2015 and attracted some 130,000 applications, concerning assets worth nearly € 60 billion. This resulted in an incremental tax revenue of some € 3.8 billion, of which € 2.1 billion for overdue taxes and € 1.7 billion for penalties.

United Kingdom. Since 2014, the UK launched two OVD initiatives, the Crown Dependencies Facility (CDF) and the Worldwide Disclosure Facility (WDF).¹⁸² Both initiatives were supported by the existence of AEOI mechanisms and indeed the WDF was presented by tax authorities as the "*final chance to come forward before we use CRS data and toughen our approach to offshore non-compliance.*" Introduced in 2014, the CDF was expected to yield £1,050 million over five years. However, disclosures were much lower than expected and the expected return was reduced to a mere £ 270 million.¹⁸³ The WDF is still ongoing, but forecasts about its expected yield have already been lowered, indicating a less than satisfactory performance.¹⁸⁴

Voluntary Disclosure Facility not Related to AEOI

Germany. Section 371 of the German Fiscal Code allows for the voluntary self-disclosure (*Selbstanzeige*) of tax evasion. The facility applies to all taxes and has a 'structural nature', unrelated to any AEOI initiative. Over the last decade, the trend in self-declarations shown considerable variations, with a major surge in 2010, followed by a drastic decline, and a second peak in 2013-early 2015, again followed by an abrupt decline. This trend appears to be the result of a variety of factors, including changes in the legal framework.¹⁸⁵ However, recent research suggests that an important role was played by the media coverage of high profile tax evasion court cases as well as by the acquisition by German tax authorities of confidential information on bank accounts abroad, which also attracted considerable media

¹⁷⁹ Circulaire du Ministre du Budget, Traitement des déclarations rectificatives des contribuables détenant des avoirs à l'étranger : transparence et droit commun, 21 juin 2013. The OVD is extensively reviewed in Cour des comptes, Les régularisations d'avoirs à l'étranger gérées par le service de traitement des déclarations rectificatives (STDR), Octobre 2017.

¹⁸⁰ The point is explicitly made in the CdC Report ("*l'entrée en vigueur prochaine de l'échange automatique de données bancaires a accru l'incitation à régulariser*", page 7).

¹⁸¹ Legge del 15 dicembre 2014 n. 186, Disposizioni in materia di emersione e rientro di capitali detenuti all'estero nonché per il potenziamento della lotta all'evasione fiscale. Disposizioni in materia di auto-riciclaggio. For a summary description of the initiative, see Agenzia delle Entrate, Voluntary disclosure: 3,8 miliardi di gettito e oltre 129mila istanze - Il bilancio dell'operazione presentato oggi al MEF, Comunicato Stampa, 9 dicembre 2015.

¹⁸² For an overview of these facilities, see HMRC, Offshore disclosure facilities, available at <https://www.gov.uk/guidance/offshore-disclosure-facilities>.

¹⁸³ See Office for Budget Responsibility, Economic and fiscal outlook, March 2016.

¹⁸⁴ The downward revision in tax revenue estimates, from £560 million to £330 million, was announced in early 2017. See Office for Budget Responsibility, Economic and fiscal outlook, March 2017.

¹⁸⁵ This includes notably an amendment to Section 371 tightening of the rules for voluntary disclosure which entered into force in January 2015.

attention.¹⁸⁶ In this context, the role played by the anticipated entry into force of the CRS is difficult to ascertain but appears to be comparatively limited.¹⁸⁷

A deterrent effect following the joint introduction of AEOI and OVD was at play in the case of EU countries, with two important qualifications. First, in France, Italy and Germany the bulk of disclosures refers to assets held in non-EU countries. In Italy, Luxembourg and Austria are the only EU countries in the top ten countries of origin of foreign assets, cumulatively accounting for less than 3% of the assets disclosed, compared with 70% for Switzerland, 8% for Monaco and 4% for the Bahamas. A similar situation is found in France, where assets originating from EU Member States accounted for about 12% of the total (of which 8% from Luxembourg alone), compared with more than 80% from Switzerland. Regarding Germany, there are no consolidated statistics, but a comparison between the data cited in various studies clearly shows that the bulk of self-declarations refer to assets held in Switzerland. Overall, this suggests that **the increase in tax revenue experienced in the cases described in Box 6.1 above is primarily linked to the launch of AEOI 'in general'** (CRS), with provisions specifically applicable to EU countries (DAC2) playing a comparatively minor role. Second, the French and, especially, Italian OVD programmes offered fairly generous incentives for the disclosure, and this 'carrot' element played an important role along with the 'stick' represented by the anticipated start of AEOI. The importance of incentives for disclosure is demonstrated *a contrario* by the UK case. Indeed, the conditions underpinning both the British initiatives were not particularly appealing to taxpayers, and this is regarded as key reason for their underperformance.¹⁸⁸ In turn, this suggests that **the deterrent effect of the AEOI may be rather limited, unless the 'threat' is supported by other incentives.**¹⁸⁹

6.4.4 Other benefits

The other benefits due to the Directive could include: (i) a reduction of harmful tax competition; (ii) the improved cooperation among tax authorities; (iii) an increase in the perceived fairness of the tax systems; and (iv) an improved functioning of the Single Market.

Reduction in the scope for harmful tax competition. In addition to potential benefits in terms of additional tax revenues, the review of the ATR/APA is expected to result in a **reduction in the scope of harmful tax competition** by affecting both companies' attitudes toward requesting rulings, and Member States' attitudes in granting them. However, none of the Member States interviewed changed their tax policies towards granting ATR/APA to MNEs, in terms of both number and content of these rulings, nor perceived any such change in other Member States' attitude. As regards companies' attitude, only one Member State reported that, in 2017, in parallel with the first exchanges, the number of rulings requested have dropped, but

¹⁸⁶ The influence of media coverage of tax cases involving celebrities is analyzed in Garz M and V Pagels, *Cautionary Tales: Celebrities, the News Media, and Participation in Tax Amnesties*, CESifo Working Paper No. 6795, December 2017. The impact of the acquisition of information on assets held in tax havens is assessed in Bethmann D and M Kvasnickay, *International Tax Evasion, State Purchases of Confidential Bank Data and Voluntary Disclosures*, mimeo, 13 February 2017. The trend in self-declarations is also reviewed, albeit from a different angle, in Langenmayr D, *Voluntary disclosure of evaded taxes — Increasing revenue, or increasing incentives to evade?* *Journal of Public Economics*, 2017.

¹⁸⁷ The deterrent effect of CRS is sometimes credited with the high level of self-declarations recorded in early 2015, when observers expected a decline due to the adoption of more restrictive rules. However, the number of self-declarations in early 2015 was probably also influenced by the news that in December 2014 tax authorities had acquired new sets of information on likely tax evaders. See: Alt j, *German Country Report, Tax Justice & Poverty*, 2016 (especially, section VI); Reuter, *German state buys tax CD containing Swiss bank client data*, 21 December 2014; and Greive M, *Angst vor den Fahndern*, *Welt am Sonntag*, 9 August 2015. Whatever its importance, the deterrent effect appears to have been short-lived, as the number of self-declarations drastically declined in mid-2015 and remained at very low levels in subsequent years.

¹⁸⁸ For instance, the question of whether the WDF is actually better than other standard instruments available to taxpayers to regularise their position was reportedly extensively discussed in professional circles. See *Abbey Tax*, *In date or out of date*, that is the question, 26 October 2017. Criticisms of the disclosure conditions offered by the WDF were voiced soon after the launch of the initiative. See Monger T, *Sticks without Carrots - The Worldwide Disclosure Facility and the Requirement to Correct*, *Tax Adviser*, October 2016.

¹⁸⁹ Further support to this interpretation is provided by the fact that the Italian OVD program introduced in 2015 led to fewer disclosures than other similar (but extremely generous) initiatives implemented during the 2000s, when the AEOI was not yet in sight. However, there are also counterexamples. Johannesen 2018 found that in the US a set of anti-evasion measures (including the announced entry into force of FATCA) had a stronger effect than a parallel OVD program.

the 2018 figures are returning to the 2016 level, which prevents any meaningful consideration on causality links. The respondents to the PC consider the Directive to have been effective in tackling harmful tax competition, as 14 out of 25 respondents agreed that the Directive contributed to the reduction of incentives for Member States to offer particularly favourable tax conditions to certain taxpayers.

Improved cooperation among tax authorities. It was generally reported by the tax authorities that a key benefit of the Directive is the increased cooperation and collaboration among Member States' competent authorities. As one interviewee stated: "*the consultation among authorities and the use of information increased over the past years. We know each other. This is particularly true with neighbouring countries, but also occurs with other Member States. We get in touch not only to discuss the information exchanged, but we also try to search for clarifications, we consult and exchange experiences, similarities, and best practices*".

Increase in the perceived fairness of the tax systems. The contribution to the perceived fairness of the tax system is one of the general objectives of the Directive. As already discussed when reconstructing the intervention logic, fairness should not be intended as a judgment of the specificities of the national fiscal policies. Rather, it is linked to the fact that all taxpayers pay their due taxes, and that companies or individuals active cross-border do not escape their fair contributions. According to the PC, the Directive effectively contributes to this objective, with 19 respondents out of 25 agreeing or partly agreeing that this is the case, and only two fully or partly disagreeing. Neither the national tax authorities nor the other stakeholders participating to the targeted consultations were able to comment on the achievement of this objective.

Improved functioning of the Single Market. In line with its legal basis, one of the Directive's general objectives concerns the proper functioning of the Single Market. Here the stress is not only on cross-border companies and individuals paying their 'fair taxes', but on them not enjoying an undue advantage, because of an unjust lower taxation, compared to domestic operators and persons. Among the various objectives, this emerged as the least prominent for stakeholders, including both public authorities and private operators. Nevertheless, the participants to the Public Consultation also have a positive view of the Directive in this respect, with 19 respondents out of 25 agreeing or partly agreeing that it contributes to the transparency of the taxation for cross-border companies, thus potentially limiting the risk of them enjoying an undue tax advantage.

6.5 Summary of findings by Evaluation Question and Judgement Criterion

Here below, the findings on the effectiveness of DAC are summed up, by highlighting whether and to what extent the Directive has achieved its specific and general objectives. This is then complemented by a brief analysis of its unintended and non-explicit effects.

Specific objective #1: Improving the ability to fight against tax fraud, evasion, and avoidance. Undoubtedly, *the Directive improved the ability of the Member States to fight against tax fraud, evasion, and avoidance*, with respect to legal and natural persons operating, gaining incomes, or holding assets across multiple jurisdictions. This is unanimously acknowledged by the tax authorities, which appreciate especially the 'menu of options' that the Directive has created. Indeed, the various ACDT provisions have resulted in a toolbox, from which the tax officials can select the most useful tool for the case at hand or the objective to be pursued. Furthermore, the instruments supported by the Directive complement, trigger, and reinforce each other.

This assessment is undisputed even considering that the quality and timeliness of certain data exchanges still present some flaws, as it results from the analysis of the specific tools. AEOI DAC1 information is affected by some limitations that affect its usability, and namely its comprehensiveness, as well as the inclusion of the identification elements. As for the latter, only a small minority of Member States is able to provide the TIN issued by the receiving country, while the name and the birthdate of the taxpayers, which are other essential

identification elements, are virtually always present. There is no issue with the timeliness of DAC1, as the information is sent well before the prescribed limits, and namely 12 months after the end of the tax year to which it refers, with an improvement over the years. DAC2 information is less subject to limitations linked to its quality, as, in more than 70% of the cases, a TIN or OIN is associated with the reported account. An assessment of the timeliness of DAC2 exchanges cannot be carried out yet, due to their recent start. As for DAC3, the little evidence available suggests that the summaries uploaded to the Central Directory are at times not sufficiently detailed. The Member States have a positive appreciation of the quality and timeliness of EOIR and SEOI, although the instances of delayed replies to EOIR requests seem to have recently increased, possibly due to the higher complexity of the cases handled.

At the same time, ***the national tax authorities are still learning how to best process and use the AEOI data received. The situation is positively evolving***, as Member States are increasingly making use of the AEOI information and their ability to match it with national taxpayers' databases has also grown. However, as of 2017, not all Member States have started employing these data, so that over a quarter of the information exchanged via DAC1 AEOI had not been utilised yet. In the case of DAC2, the recent start of exchanges does not allow any firm conclusion on the use of the information, but, during the targeted consultation, a greater propensity and ability to exploit the data was reported by tax authorities. This also results from the analysis of unused DAC2 information, which is estimated at 27% of the accounts, and 12% of the amounts. This compares favourably with DAC1, once considering the time elapsed from the start of the exchanges. As for DAC3, it is still too early to assess how and the extent to which Member States will put the information to good use.

Specific Objective #2: Reducing the scope for harmful tax competition. The reduction in the scope for harmful tax competition is an objective pursued by DAC in general, and in particular by the amendments aiming at making the national tax systems more transparent, i.e. DAC3 and DAC4. On the latter, the first exchanges had just taken place at the time of writing, and hence no information on their outcomes is available. However, tax authorities well appreciate the potential of CbCR and are eager to start using the information so obtained. On the former, the evidence shows that the transparency of advanced rulings has increased, given that the introduction of DAC3 resulted in a large growth of the number of ATR/APA disclosed. At the same time, this has so far not affected the behaviour of tax authorities in granting ATR/APA, nor the attitude of firms demanding for these rulings.

Specific Objective #3: Increasing spontaneous tax compliance via the deterrent effect. The DAC mechanisms in general, and more specifically the AEOI, providing for the mass exchange of data about taxpayers at large, are expected to have a deterrent effect on taxpayers, thus increasing the spontaneous compliance with their tax obligations. This depends, in turn, on the level of awareness among taxpayers and providers of tax accountancy services about the existence and functioning of the AEOI mechanism.

On the taxpayers' level of awareness, the stakeholders reported different opinions and experiences. The awareness appears to be sufficiently widespread and growing among the taxpayers concerned, i.e. those with incomes and assets abroad, also thanks to the media coverage of cross-border tax frauds.

On the consequent deterrent effect, the evidence is not conclusive, due to the recent implementation of the AEOI mechanisms, and in particular of DAC2. So far, no evidence of abnormal variations in the declared incomes and assets was noticed by the tax authorities, although it may be yet too early to say. At the same time, ***tax authorities are already trying to take advantage of the potential deterrence, thus signalling the potential of AEOI in spurring spontaneous tax compliance.*** In particular, a number of actions have been launched by various Member States to invite taxpayers to spontaneously comply when discrepancies are identified between their tax declarations and the data received via the AEOI. The results have seemingly been positive, although no quantitative analysis of the outcomes is available yet. With respect to DAC2, it appears that the exchange of financial information did exert an effect in

fostering the disclosure of hidden assets. However, the disclosure mainly concerned assets held in non-EU Member States, so that, possibly, the CRS played a more important role.

General Objective #1: Contributing to safeguard Member States' tax revenues. This analysis is constrained by the very recent implementation of several DAC provisions, as well as by Member States' difficulties in distinguishing the contribution of the Directive from that of other drivers, on the one hand, and to earmark the results obtained on the other. Though only few Member States were able to provide quantitative estimates of the amount of additional tax collected thanks to ACDT mechanisms, the findings show that **both AEOI and non-AEOI provisions have contributed to safeguard Member States tax revenues.**

In 2016 and 2017, **the AEOI provisions generated an estimated increase in the tax assessed of about € 92 million.** More in details, this results from about €10 million of additional tax assessed in Estonia, Poland, and Slovenia, and an additional tax base of € 319 million in Belgium and Finland.¹⁹⁰ The extent to which the additional tax assessed is going to translate into additional tax collected is unclear, as the exemptions and deductions applicable under DTT limit the potential revenues. The benefits that have been reported so far originate from DAC1 only, given that the first round of DAC2 exchanges occurred only in September 2016 and there is not yet any information on its impacts; in addition, very little can be said with regards to the benefits from DAC3, and DAC4 due to their recent implementation.

Information on the benefits of non-AEOI activities is also quite limited, with only a handful of countries providing this information. The total value of benefits for the period 2014-2017 is in the order of € 532 million, with major differences among Member States. Nearly half of these benefits come from EOIR activities, and about one third from SCs. All in all, **the benefits from non-AEOI activities appear much higher than those from AEOI**, possibly also because those activities can be more easily linked to the outcome of an audit or investigation, and of the longer period covered by the data (four years compared to two for AEOI).

General Objectives #2 and #3: Contributing to the proper functioning of the Single Market and to the fairness of the tax system. Very limited findings are available on the achievement of the other two general objectives – that is increasing tax fairness and promoting the proper functioning of the Single Market, as these impacts remain more elusive to capture even for informed stakeholders, who, during the targeted consultations, could hardly comment on these aspects. Notwithstanding the limited number of replies, from the Public Consultation, it results that **the Directive is considered as having positively contributed to increasing the fairness of the tax systems**, so that companies active cross-border and individuals with incomes from or assets in another Member State are more likely to pay their fair contribution. In line with this, **the Directive's role in ensuring that cross-border companies do not enjoy an undue advantage – so that the Single Market functions more properly – is also praised** by the Public Consultation respondents.

Unintended effects. In the course of the Study, **no significant unintended effect was identified**, neither based on the stakeholders' feedback, nor on the analysis of the available statistics and secondary sources. In particular, attention was devoted to verify whether the establishment of the AEOI on financial assets detained abroad would have caused taxpayers to shift their capital towards non-EU Member States, and namely to jurisdictions not part to the CRS framework. No tax authorities or private operators witnessed the occurrence of such a movement of capital. Similarly, for incomes from employment, no circumventing measures were observed by the stakeholders (for instance, attributing a number of work contracts to a non-EU subsidiary).

Two non-explicit effects, meaning outcomes which do not correspond to any of the specific or general objectives of the Directive, could be ascertained. First, and most importantly, **the Directive contributed to building trust among tax authorities**, in particular by setting up

¹⁹⁰ For aggregation, the additional tax base was converted into additional tax assessed using a 25% ratio, based on discussions with tax authorities.

a safe and secure IT environment and procedural framework through which competent officials could cooperate and exchange data. The trust was also increased by the personal cooperation taking place in the various working groups and expert committees, which allowed tax authorities to “*know each other better*”. This was especially valuable for non-neighbouring countries, which may not have had a pre-existing history of cross-border cooperation. Secondly, as mentioned by one tax authority, having committed to commonly shared EU-wide EOI also ***improved the negotiating position of the single Member States and of the Union***, when negotiating similar agreements with non-EU jurisdictions.

7 EFFICIENCY

7.1 Introduction

This Section provides the analysis of the **regulatory costs and cost savings generated by the DAC for all affected stakeholders**, with a view to assessing the extent to which the costs are commensurate with the benefits achieved.¹⁹¹ The costs and cost savings associated with the implementation of AEOI can be divided into two categories, namely: (i) **compliance costs and cost savings**, which refer to those generated by the substantive obligations; and (ii) **administrative burdens and burden reduction**, which include those related to the compliance with Information Obligations (IOs).¹⁹² Another type of expenditure, **EU budget support**, is also taken into account, although it may represent either an additional cost or a transfer, in the cases in which it substitutes expenditures at the national level.

The regulatory costs and cost savings concern three categories of stakeholders, namely: (i) the **Member States' tax authorities** responsible for the implementation of the Directive; (ii) the **financial institutions** collecting the information to be exchanged under DAC2; and (iii) the **taxpayers** to whom the information exchanged refers. These costs can be further classified as **one-off and recurrent costs and cost savings**. One-off costs are typically linked to the setting up of the exchange mechanisms: they mainly consist of investment expenditures, but also include the costs of staff resources and training needed to set up the various mechanisms. Recurrent costs and cost savings refer to the expenditures (and savings) incurred in operating the exchange mechanisms, carrying out non-AEOI activities, and collecting and providing data and information when so required. They mainly refer to the resources (e.g. personnel, financial) needed to fulfil the various obligations, as well as to the operational and maintenance costs for the use of the exchange systems.

Exhibit 7.1 Typology of Regulatory Costs and Cost Savings

Description	Incurred by	Nature	Applicable to
Compliance Costs			
IT investment and personnel costs for the development and setting up of the AEOI systems (AEOI development costs)	Member States	One-off	AEOI (DAC1, DAC2 and DAC3)
IT maintenance and personnel costs for operating the AEOI system (i.e. collecting and exchanging info) (AEOI operational costs)	Member States	Recurrent	AEOI (DAC1, DAC2 and DAC3)
Costs for carrying out non-AEOI activities (non-AEOI costs)	Member States	Recurrent	Non-AEOI provisions
IT investment and personnel costs for the development and setting up of DAC2-AEOI mechanisms (including the collection of information for existing clients) (DAC2 initial costs)	Financial Institutions	One-off	AEOI (DAC2)
Compliance Cost Savings			
Operational cost savings for ACDT activities compared with the pre-Directive situation (non-AEOI cost savings)	Member States	Recurrent	Non-AEOI provisions
Administrative Burdens			
Costs for the fulfilment of DAC reporting obligations (Reporting costs)	Member States	Recurrent	All provisions

¹⁹¹ Analysed in Section 6.4 above.

¹⁹² In this Section, no difference is made between administrative costs and administrative burdens. Indeed, there are no 'business-as-usual' requirements for the tax authorities and economic operators, as the Directive imposes additional tasks and duties. Hence, administrative costs and burdens coincide (or, in other words, the business-as-usual factor is 0%). Cf. Box 7.2 below for further discussion on the classification of costs and burdens for DAC2.

IT maintenance and personnel costs for operating the DAC2-AEOI system (i.e. upgrades of IT systems, collection of specific information on new clients, and updating of information on existing clients when circumstances change) (DAC2 recurrent costs)	Financial Institutions	Recurrent	AEOI (DAC2)
Costs for the provision of information to financial institutions (Taxpayers costs)	Taxpayers	One-off	AEOI (DAC2)
Administrative Burden Reduction			
Value of time saved by taxpayers when the information from AEOI is pre-filled in tax declarations (Pre-filling burden reduction)	Taxpayers	Recurrent	AEOI (DAC1)
EU Budget Support			
Costs for the development and maintenance of the IT Tools	EU / Transfer	One-off	All provisions
Support to OFACDT activities	EU / Transfer	Recurrent	OFACDT provisions

The analysis of costs and cost savings relies on **the following sources**:

- 1) for Member States, the **YA** submitted by the national authorities and the **targeted consultation**;
- 2) for financial institutions and taxpayers, the **targeted consultation** and **desk research**.

The Section is structured as follows: (i) Section 7.2 deals with the costs and cost savings for national authorities; (ii) Section 7.3 presents the costs for financial; (iii) Sections 7.4 analyses the costs and cost savings for taxpayers; (iv) Section 7.5 assesses the EU budget support, namely the Fiscalis 2013 and 2020 programmes; (v) Section 7.6 provides some considerations on the cost-effectiveness of the Directive; and (vi) Section 7.7 briefly concludes.

7.2 Costs and cost savings for public authorities

The analysis of the costs and cost savings for public authorities focuses on three aspects: (i) the costs due to the AEOI, (ii) the costs and cost savings due to the non-automatic EOI and OFACDT; and (iii) the administrative burdens due to the reporting obligations. A quantitative assessment at the EU level could be carried out for AEOI costs and reporting obligation burdens, while the other items are assessed qualitatively.

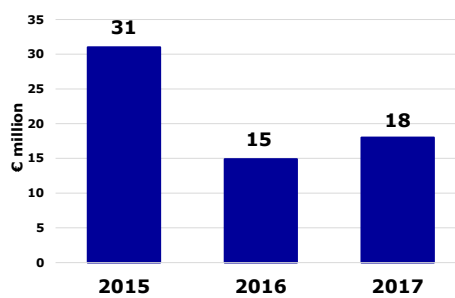
7.2.1 Costs due to AEOI

This sub-section focuses on the **compliance costs generated in both setting up and running the AEOI systems** (AEOI development and operational costs). The costs are presented for the various provisions, i.e. DAC1, DAC2, and DAC3 AEOI, while it is too early to assess the cost of DAC4.

7.2.1.1 Compliance Costs: DAC1

The information on DAC1 costs is available in the YA for **22 Member States**,¹⁹³ for the years 2015, 2016 and 2017. The data for 2015 also include any costs that may have been incurred in the previous years, in preparation of the first exchange of information.

¹⁹³ Missing data/zero values for Bulgaria, Cyprus, the Czech Republic, Greece, Italy, and Poland. In the case of two countries, France and Sweden, only overall estimates for total expenditure over the three-year period are available. Moreover, these figures refer to all types of AEOI, including DAC2 and FATCA. The costs related to DAC1 have been assumed to account for half of the total, i.e. € 3.2 million for France and € 1.5 million for Sweden

Exhibit 7.2 Trend in Total DAC1 Compliance Costs – 2015 – 2017

Note: Excluding France and Sweden
Source: Authors' elaboration on YA

Between 2015 and 2017, the **compliance costs borne by the 22 Member States amounted to about € 69 million**. A significant share of the total costs was related to the DAC1 launch phase. Indeed, leaving aside France and Sweden, for which annual values are not available, the expenditures incurred from 2012 up to the end of 2015 amount to € 31 million, i.e. slightly less than half of the total. Still, expenditures in the two following years were also considerable, at about € 15 – 18 million/year.

The development costs account for the bulk of the expenditures. Indeed, over the 2015 – 2017 period, the one-off costs incurred for setting up or adjusting the IT systems represented about four-fifths of the total, with recurrent costs

(mostly personnel costs) accounting for the remaining fifth.¹⁹⁴ The balance between development and recurrent costs shows only modest variations over time. The relative importance of the two cost components shows limited variations across countries, as, with only two exceptions, the majority of costs relate to development costs in all Member States.¹⁹⁵

Exhibit 7.3 Composition of DAC1 Compliance Costs – 2015 - 2017

Note: Excluding France and Sweden
Source: Authors' elaboration on YA

Compliance costs exhibit major differences across the Member States, ranging from more than € 15 million spent by Germany to less than € 100,000 spent by Hungary. In addition to Germany, large expenditures in the € 7-9 million range were also incurred in Belgium, the UK, Luxembourg and Slovakia. The magnitude of the costs is largely unrelated to the country size or to the amount of information exchanged (i.e. number of taxpayers and amounts concerned).¹⁹⁶ The distribution is skewed, with eight countries, each spending more than € 3 million, accounting for 87% of the total costs. As discussed with the Tax Authorities, these major differences are seemingly motivated by a combination of factors, including the different level of IT readiness of tax authorities at the start of DAC1 exchanges, the varying level of sophistication of the IT systems implemented for AEOI, and the adoption of different procurement methods (e.g. reliance on services provided by big IT consultancies vs in-house development). In certain cases, institutional aspects (such as the involvement of sub-national tax authorities) may have also played a role.

The lack of any significant trend in national DAC1 costs driven by the country size or the amount of information exchanged suggests using a simple approach to extrapolate the EU costs, based on the median of the 22 available data points. Considering that the median costs per country amount to € 0.9 million, and inputting this value for the six missing Member States, **the total costs for the EU due to DAC1 in the 2015-2017 period can be estimated at € 74 million, of which € 60.5 million is for its development, and € 13.5 million for its operation.**¹⁹⁷

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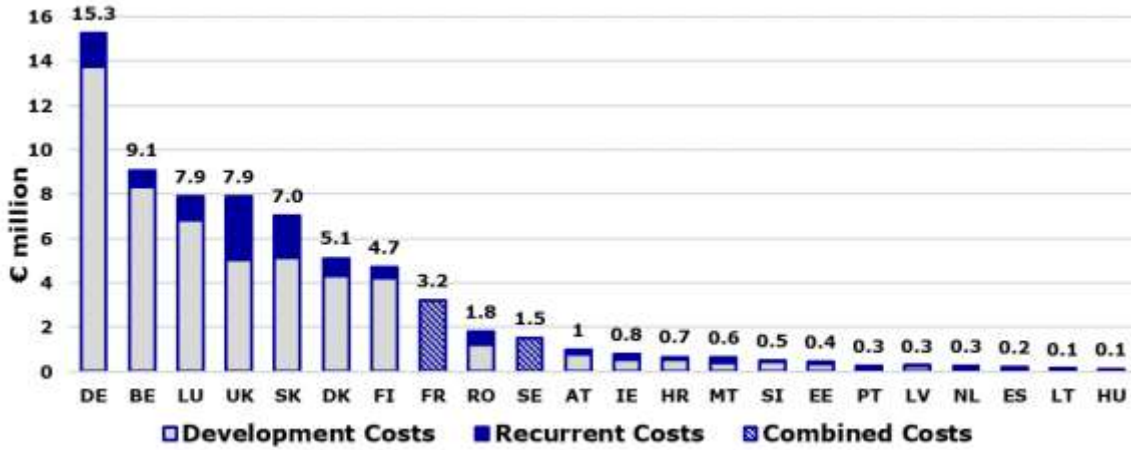
¹⁹⁴ Since some Member States had difficulties in correctly estimating operational costs linked to AEOI operations, the share of the recurring costs is probably underestimated.

¹⁹⁵ The two exceptions are Portugal, which spent marginally more on recurring costs (51% vs. 49%), and the Netherlands, which already had an IT system in place.

¹⁹⁶ Based on an ordinary least square regression, DAC1 expenditures are not significantly correlated with the amount of data received, measured by either the number of recipients and or the monetary value of the exchanges. They are significantly correlated with the country size, proxied by the number of inhabitants, but the magnitude of the correlation is very low (for each additional 1 million inhabitants, the expenditures grow by about EUR 85,000).

¹⁹⁷ Considering a plausible range, the EU costs can be estimate to fall between € 71 and 88 million, based on the first and second terciles of the distribution.

Exhibit 7.4 DAC1 Compliance Costs – 2015 – 2017 (22 Member States)



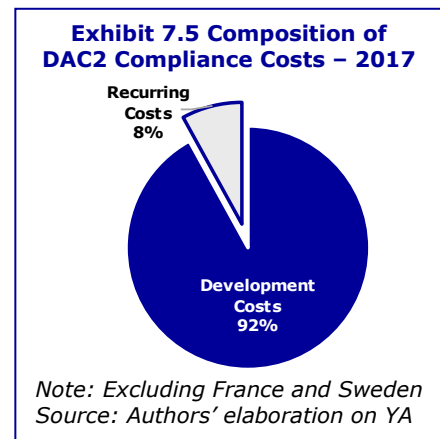
Source: Authors' elaboration on YA

7.2.1.2 Compliance Costs: DAC2

The information on DAC2 compliance costs is available for **21 Member States**¹⁹⁸ and refers to the expenditures incurred in the first year in which the first exchange took place, i.e. up to the end of 2017. **The total compliance costs incurred by the tax authorities amount to € 50 million.** This is quite a significant figure, exceeding by some € 20 million the costs incurred by the same Member States in the DAC1 launch phase. However, it should be noted that the same platform is used both for DAC2 and CRS. Therefore, it is difficult to accurately distinguish the DAC2 costs. Similar considerations apply to FATCA, as some countries have developed integrated platforms capable of handling all types of financial information exchanges.¹⁹⁹ Therefore, **the figures reported by Member States may overestimate the true compliance costs attributable solely to the EU legislation.**

Given that the exchanges had just started in September 2017, **most of the DAC2 compliance costs consist of development costs** (92% of the total) – slightly higher than for DAC1. There are limited differences across Member States, as in all of them the development costs account for more than two-thirds of the total.

As in the case of DAC1, **there are significant differences in the compliance costs incurred by the Member States.** Germany is by far the largest spender, with nearly € 20 million invested in DAC2 (almost entirely in IT infrastructure), accounting alone for almost 40% of total costs. Other Member States spending considerable amounts include Denmark, the UK, the Slovak Republic, Luxembourg, and the Netherlands, which report costs in the € 3 – 5 million range. A number of EU countries show significant expenditures for both DAC1 and DAC2 (Germany, the UK, Luxembourg, and the Slovak Republic), while others spent much less for DAC2 (e.g. Belgium and Finland, whose expenditures for DAC2 are just one-tenth of what was spent for DAC1).



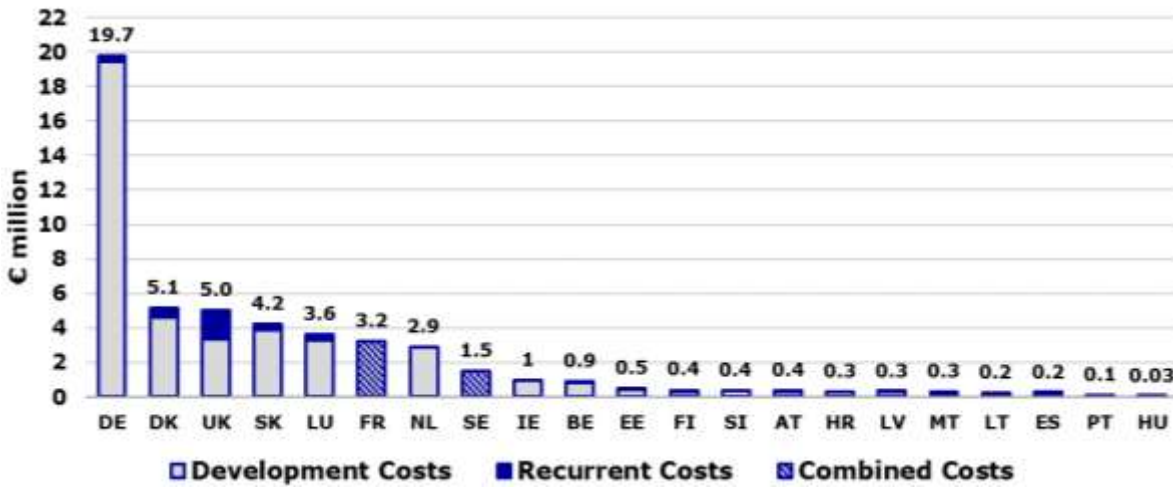
The median DAC2 compliance costs per Member State amount to € 0.5 million. As for DAC1, EU costs are estimated by inputting the median value for the seven missing Member States. Based on this assumption, **the total implementation costs for DAC2 in the EU can be estimated**

¹⁹⁸ Missing data/zero values for Bulgaria, Cyprus, the Czech Republic, Greece, Italy, Poland, and Romania. As in the case of DAC1, for France and Sweden only estimates of total costs are available (cf. above note 193).

¹⁹⁹ This is notably the case of France and Sweden, whose estimates explicitly include costs related to FATCA.

at € 53 million, of which € 49 million is for its development, and € 4 million for its operation.²⁰⁰ As mentioned, these estimates are likely to include costs attributable to the CRS and, to a more limited extent, FATCA.

Exhibit 7.6 DAC2 Compliance Costs – 2017 (21 Member States)



Source: Authors’ elaboration on YA

7.2.1.3 Compliance Costs: DAC3

The information on the costs borne by the Member States for implementing and operationalising DAC3 is available for **13 Member States**.²⁰¹ As in the case of DAC2, this information refers to expenditures incurred in the first year in which the first exchange took place, i.e. up to the end of 2017.

The implementation of DAC3 provisions resulted in total compliance costs of around € 2.2 million. This is a modest figure compared with the costs incurred for DAC1 and DAC2, in line with the very nature of the provisions. Indeed, as already indicated in Section 2, under DAC3 the relevant information is uploaded in the Central Directory managed by the Commission. Moreover, **the amount of information to be exchanged is much smaller** than in the case of DAC1 and DAC2 (at most a few thousand rather than millions of records). This reduces the complexity of the IT systems and procedures that have to be put in place by the Member States, with obvious implications for the related costs.

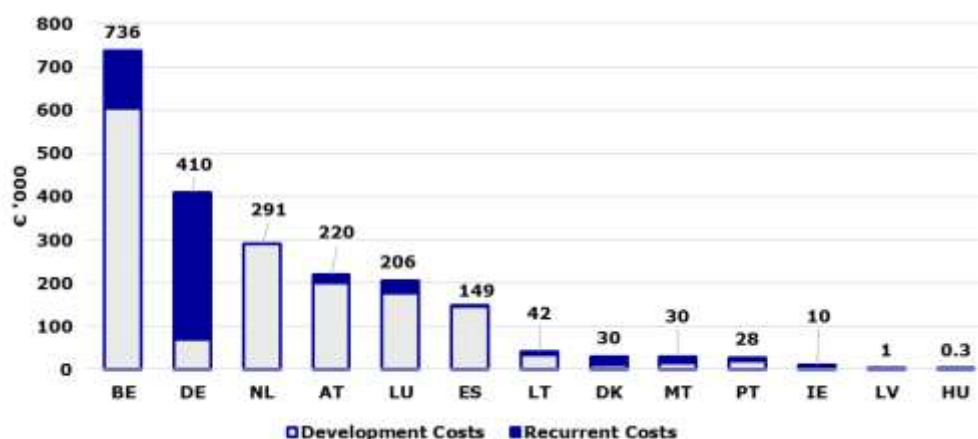
The development costs account for three-quarters of the total expenditures, i.e. less than in the case of DAC1 and DAC2. The larger share of recurrent costs can be explained by the nature of the information exchanged, as the ATR/APA need more manual intervention (i.e. drafting the summaries). Indeed, there are a few countries in which the recurrent costs account for at least 50% of the total.

While the absolute values are generally low, **there are significant differences in compliance costs among Member States.** Belgium displays the highest costs, above € 700,000, followed by Germany, the Netherlands, Austria, and Luxembourg, whose reported costs fall in the € 200,000 – 400,000 range. Overall, the compliance costs appear to be only loosely correlated with the volume of information exchanged. Hence, as for DAC1 and DAC2, the EU costs for implementation of DAC3 are estimated based on the median value– around € 42,000 – and **they thus amount to € 2.8 million, of which € 2 million is for its development and € 800,000 for its operation.**²⁰²

²⁰⁰ Considering a plausible range, the EU costs can be estimate to fall between € 52 and 65 million, based on the first and second terciles of the distribution.

²⁰¹ Three Member States (Estonia, Croatia, and the Slovak Republic) reported no costs. Missing data for Bulgaria, Cyprus, Czech Republic, Finland, France, Greece, Italy, Poland, Romania, Slovenia, Sweden, and the UK.

²⁰² Considering a plausible range, the EU costs can be estimate to fall between € 2.6 and 5.2 million, based on the first and second terciles of the distribution.

Exhibit 7.7 DAC3 Compliance Costs – 2017 (16 Member States)

Source: Authors' elaboration on YA

7.2.1.4 Total AEOI costs for Member States

The available data for DAC1, DAC2 and DAC3 have been extrapolated considering the median costs per Member State, as the costs incurred were not driven by common causal factors (e.g. country size, amount of data exchanged). Summing up the impacts of the three provisions, **the total costs incurred by the national tax authorities up to 2017 for AEOI²⁰³ can be estimated at about € 130 million,²⁰⁴ or about € 4.6 million per Member State.**

Around five euros out of six were spent to develop and adjust the IT infrastructure, while about one euro out of six was spent for operating the IT systems. The prevalence of development over recurrent costs is constant across the three types of AEOI, although the share of the development costs is likely to decrease in the subsequent years.

In terms of cost per exchange, between 2015 and 2017 the average DAC1 cost per taxpayer position amounted to € 4.6; for DAC2, the average cost per account reported amounted to € 6.4. Average costs are significantly higher for DAC3, at € 157 per ATR/APA exchanged, reflecting the smaller volume – which means that the IT costs can be spread over a lower number of operations – and the more intense manual handling of the files.

Exhibit 7.8 Member States costs due to AEOI – EU estimates (€ million)

Provision	Period	Compliance costs	Share	Of which: Development	Of which: Recurrent
DAC1	Initial costs up to 2015, 2016, 2017	73.8	57%	60.5	13.3
DAC2	Initial costs up to 2017	53.3	41%	49.1	4.2
DAC3	Initial costs up to 2017	2.8	2%	2.0	0.8
Total	-	129.9	-	111.6	18.3

Source: Authors' own elaboration

7.2.2 Costs and cost savings due to non-automatic EOI and OFACDT

Here below, the costs and cost savings generated by the DAC with respect to the EOIR are described in Section 7.2.2.1; Section 7.2.2.2 deals with SEOI and OFACDT.

7.2.2.1 Costs and cost savings due to EOIR

²⁰³ Excluding DAC4

²⁰⁴ Considering a plausible range, the EU costs can be estimated to fall between € 126 and 158 million.

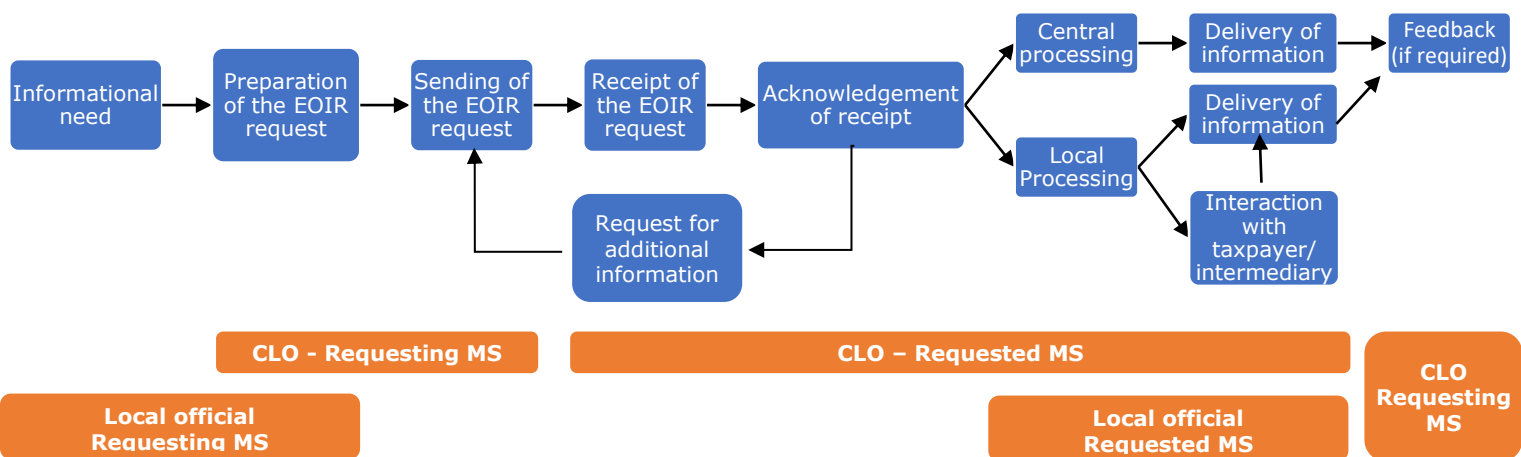
The use of EOIR pre-dates DAC, as it was already possible under the previous EU legislation,²⁰⁵ bilateral agreements, and the OECD framework. However, **the DAC deeply innovated how EOIRs are handled by EU Member States**, and this has resulted in significant efficiency gains, according to the tax authorities. The impact of DAC on the working of tax authorities is assessed by considering the various administrative activities required for this type of exchange.

Analysis of the administrative activities. An EOIR takes place when the tax authority of the country in which a taxpayer is resident needs to receive one or more pieces of information which are accessible in another Member State. This need usually emerges in the context of a tax audit or during the activities that precede it, but can also arise in other contexts. The request can be formulated by the tax authority official in charge of the audit, and then transmitted by the CLO according, as far as possible, to the DAC EOIR standard forms. Alternatively, the tax authority official in charge of the audit or the preparatory activities can be designed as a competent official and thus access the CCN network and prepare and transmit the request to the other Member State.

The EOIR is received by the CLO of the requested Member State, which shall confirm its successful receipt within seven days. Most of the EOIRs are then forwarded by the CLO to the competent local tax office, according to geographical or functional areas, in order to retrieve the information. Only a minimal share of the EOIRs is handled directly by the CLO (i.e. when the information can be retrieved from the existing central databases). According to the targeted consultation, between 85% and 95% of the EOIRs are distributed to the local tax offices, and only 5-15% of the EOIRs are handled centrally.

The CLO has one month to communicate to the requesting authority that more information is needed in order to process the EOIR. If this is not the case, the CLO has two months to transmit the information, if the tax authority already possesses it, or six months, if the information needs to be obtained from the taxpayer or an intermediary (e.g. a financial institution), unless differently agreed as per Art. 7(2). The information can be obtained from the taxpayer or the intermediary via different modalities, e.g. by issuing a written request for information to the taxpayer, by convoking him/her at the tax authority offices, or by examining documentary records (e.g. invoices). Once the information is collected, it is then delivered by the CLO of the requested Member State to the requesting CLO, which may be requested to provide a feedback on the usefulness of the information received. The administrative activities involved in processing an EOIR are depicted in Exhibit 7.9.

Exhibit 7.9 Administrative activities for an EOIR



Source: Author's own elaboration

²⁰⁵ Cf. Article 2 of the Mutual Assistance Directive, already included in its 1977 version.

EOIR Costs. From the targeted consultation, it emerged that the new rules on EOIR introduced by the **DAC generated no significant one-off costs** for the IT systems.²⁰⁶ As for the recurrent ones, the tax authorities made it clear that the **DAC did not result in additional costs**. However, the quantitative analysis of EOIR costs is not possible as 'there is no one EOIR like another', and that the time needed to retrieve the information varies on a case-by-case basis, in particular depending on whether a local tax office needs to be alerted, whether an interaction with the taxpayer is needed, and through which modality ('it can take three hours to write a letter, 15 minutes for a phone call, and the lead time for receiving the information can be two weeks or six months').

Cost savings. All the authorities interviewed confirmed that **the DAC was crucial in making EOIR more efficient**, in particular because of the standardisation introduced by the e-forms. The standardisation concerned various aspects of the EOIR, and namely: (i) the format, and thus the information which needs to be included in the request; (ii) the means of communication for exchanging the information, i.e. the CCN; (iii) the addressee, i.e. the CLO of the other Member State; and (iv) the procedures and the time limits for handling it. The standardisation obviously made the transmission part of the EOIR process – the sending-receiving-acknowledgement blocks shown in Exhibit 7.10 above – more efficient ('under the DAC, the request is well automatized; with other OECD countries or under different tax treaties, it is more complex, as you need to identify the addressee, use certified mail services etc.').

However, and less obviously, **the DAC also improved the efficiency of handling EOIRs by the receiving authorities**. Also, the introduction of a standard content for EOIRs helped in mainstreaming the tool across tax officials, especially outside the CLO and in local offices, and in streamlining how requests are formulated and handled.

The improved efficiency brought by the e-forms was confirmed by the evaluation of the Fiscalis 2013 programme, which supported the definition and introduction of e-forms. These forms were considered by four-fifths of the tax authorities as having made EOIRs easier, in particular because of the introduction of pre-set fields which, especially for simpler cases, eased the formulation of the request for the sending authority, and its handling for the receiving authority. The automatic translation tool embedded in the e-forms was also praised as a cost-saver.²⁰⁷ In similar contexts, the advantages brought by the introduction of the e-forms in general, and of the automatic translation tools in particular, were further verified in the evaluations of the EU framework for cooperation in the field of VAT²⁰⁸ and the assistance to recovery claims.²⁰⁹

7.2.2.2 Costs and cost savings due to SEOI and OFACDT

A selected number of tax authorities was asked to provide data on the costs incurred for SEOI activities and OFACDT. As for one-off costs, they confirmed that **these tools did not require any specific or significant investment**. As for recurrent costs, only one authority was able to provide an indication of the time spent for SEOI, PAOE, and SC activities. The other authorities could only provide a general indication that, as for the EOIR, the level of effort depends on the case at hand, and no typical time commitment in these respects can be defined. As for cost savings, the positive effect of the standardisation of the communication channels for SEOI was noted, but this was less significant than for EOIR.

²⁰⁶ In a couple of Member States, an overall change in the IT system and procedure was undertaken after the introduction of the DAC, and also concerned the handling and transmission of EOIRs.

²⁰⁷ Ramboll (2014), Final evaluation of the Fiscalis 2013 programme - Final report for the European Commission (hereinafter the 'Fiscalis 2013 final evaluation').

²⁰⁸ Commission Staff Working Document, Impact Assessment Accompanying the document "Amended proposal for a Council Regulation amending Regulation 904/2010 as regards measures to strengthen administrative cooperation in the field of value added tax", SWD (2017)428, 30.11.2017, (hereinafter the 'Evaluation of Regulation 904/2010').

²⁰⁹ Commission Staff Working Document for the evaluation of the use of mutual tax recovery assistance on the basis of Directive 2010/24/EU by the EU Member States Accompanying the document Report from the Commission to the European Parliament and the Council on the operation of the arrangements established by Council Directive 2010/24/EU of 16 March 2010 concerning mutual assistance for the recovery of claims relating to taxes, duties and other measures, SWD (2017)461, 18.12.2017. Hereinafter, 'Recovery Directive Evaluation'.

Importantly, as further discussed below in Section 7.5, the operational costs of SC and, to a more limited extent, PAOE have been partly covered by the funding provided by the Fiscalis programme, that the national tax authorities can use to finance these activities. While the national budgets must cover personnel costs, i.e. the time that tax officials spend in carrying out PAOE and SC, other items, such as travel and subsistence costs, can be financed via Fiscalis.

7.2.3 Burdens due to reporting obligations

The Member States are required to periodically submit information to the Commission regarding the implementation of the DAC provisions. This obligation is divided into four IOs, namely:

- The filling-in of the YA questionnaire on the effectiveness of the AEOI;
- The filling-in of the QFD;
- The compilation of the AEOI statistics, i.e. conducting queries on the information exchanged under DAC1 and DAC2;
- The compilation of the CACT statistics on ACDT.

In accordance with the Standard Cost Model (SCM) methodology, the quantification of these administrative burdens is based on the following parameters

- 1) **Frequency.** Each IO must be complied with once per year.
- 2) **Population.** The 28 national tax authorities are responsible for providing this information.
- 3) **Costs per occurrence.** The costs per occurrence were estimated by enquiring with the tax authorities about the amount of personnel time spent in compiling and submitting the information. Four tax authorities were consulted on this matter.²¹⁰ The data provided were consistent, and the normally-efficient time per occurrence has been estimated based on the median value, and then monetised based on the average EU salary of an associate professional.²¹¹

The compliance with each IO takes about three to four days per year, with the exception of the CACT statistics, which can be collected with a more limited effort (1.5 days). In total, each Member State authority spent almost twelve person/days per year on the ACDT reporting obligations. Based on these estimates, the average cost for all of the four IOs is estimated at about € 3,000 per year. **At the EU level, the total costs thus reach nearly € 80,000 per year**, as shown in Exhibit 7.10 below.

Exhibit 7.10 Member States burdens due to reporting obligations

	Questionnaires		Statistics		Total
	YA	QFD	AEOI	CACT	
Time per occurrence (days)	3	4	3.3	1.5	11.8
Cost per occurrence (€)	706	941	764	353	2,764
Total costs at EU level (€ '000)	20	26	21	10	77

Source: Authors' own elaboration

The administrative burdens shown above are only one of the effects generated by the reporting obligations on tax administrations. Indeed, there is a certain level of **hassle costs** generated by these IOs in relation to other reporting obligations arising from the OECD framework. Indeed, several tax authorities felt they were being subjected to a possibly excessive number of EU and international reporting obligations, which requires a significant effort, especially in the smallest Member States, in which the staff deployed in the CLO is more limited. The combination of EU and OECD reporting obligations also partly leads to the **duplicated reporting** of similar facts

²¹⁰ The limited number of authorities consulted on this subject matter can be explained by the following reasons: (i) the expected limited amount of burdens, as confirmed by the resulting estimates; (ii) the need to not over-burden all the interviewees with additional questions; (iii) the fact that the interviews carried out delivered consistent results; (iv) the minimum SCM requirements, which prescribe at least three interviews per each population segment. Cf. SCM Network (2009), International Standard Cost Model Manual, at p. 39.

²¹¹ Including 25% overheads, it amounts to € 29.4 per hour. Cf. Eurostat, Earnings statistics, available at http://ec.europa.eu/eurostat/statistics-explained/index.php?title=Earnings_statistics. Data refer to 2014, the most recent year for which information is available. This is the approach adopted in the seminal work in this field.

and figures, which have nevertheless to be handled and submitted according to different standards. Finally, the hassle component is exacerbated, according to some interviewees, by the fact that they do not perceive that the information submitted is then 'put to good use' to improve the functioning of the ACDT.

Secondly, the burdens quantified in Exhibit 7.11 above represent the operational costs of the current systems, i.e. **they do not take into consideration the one-off costs** that were needed to set up a system capable of extracting this information from the existing databases. For example, in one Member State, the collection of the information for the QFD has been integrated into the IT platform, and this implied IT and training costs. However, there is insufficient information available for quantifying these one-off costs. Additionally, for AEOI statistics, the data presented above do not take into account the computation time needed for running the queries and extracting the information from the database.

Finally, **the implementation of the e-forms Central application is expected to allow the automatic collection of some of the statistics currently retrieved via the questionnaires** (e.g. on the type and timeliness of certain exchanges). This should result, in the near future, in lower burdens and hassle related to the DAC reporting obligations.

7.3 Costs and burdens for financial institutions

The information to be exchanged under DAC2 originates from the financial institutions, i.e. from banks and other financial operators. In particular, the financial institutions are required to review their client base in order to identify the accounts and clients whose information is to be reported to tax authorities (the 'Reportable Accounts' and 'Reportable Persons') and to collect the information necessary for their identification (e.g. TIN, address). More in details, the financial institutions have to carry out the following tasks:

1. the **search of internal databases** to identify elements suggesting tax residency in another country (the so-called *indicia*);
2. the **performance of various due diligence activities** to ascertain the tax residency status and/or the identity of certain account holders;
3. the **transmission of the information to the tax authorities** through secure channels.

DAC2 requirements generates two categories of costs, namely development costs (DAC2 Initial Costs) and recurrent costs (DAC2 Annual Costs). The **Initial Costs** refer to the expenditures for: (i) the design and setting up of the procedures and IT systems for the search, collection and transmission of the information; and (ii) the due diligence activities on the existing clients, i.e. those with an account pre-dating the entry into force of DAC2. The **Annual Costs** include expenditures for: (i) collecting information on new clients; and (ii) monitoring the tax residency situation of existing clients and, in case of changes in circumstances, the collection of the relevant information.

The information on the compliance costs for financial institutions was derived from the **review of documentary sources** (position papers and government documents) and refined via **the targeted consultation**, including sector associations and commercial banks. The evidence collected is summarised in Box 7.1 below.

Box 7.1 Evidence on Compliance Costs Incurred by Financial Institutions

Estimates for Selected Member States

Austria. Financial sector stakeholders indicated that the implementation of DAC2/CRS "involved major costs for the banking sector". For the quantification of these costs, a reference was made to an impact assessment carried out by the Ministry of Finance, which estimated the total initial costs for the financial

sector (banks and insurance companies) at some € 40 to € 60 million. Annual costs were estimated at some € 5 to € 10 million per year.²¹²

Belgium. The stakeholders considered that DAC2 placed a considerable burden on the financial sector. This was particularly the case for commercial banks, whereas investment funds and insurance companies were much less affected. While no estimate was provided, the total cost was deemed to be substantial (*“the total cost of CRS for the Belgian banking sector is for sure several million euros; could even be dozens of millions”*).

France. An unofficial estimate offered by an economic operator puts the initial cost of implementing DAC2/CRS at some € 100 million. The recurrent costs for DAC2/CRS are estimated at some € 30 million per year. The figure for initial costs is somewhat lower than an earlier estimate of the costs for FATCA, which were assessed to be between € 200 and € 300 million.²¹³

Germany. The financial sector stakeholders expressed the view that the implementation of DAC2/CRS entailed a significant effort. In the case of savings banks, the initial development work was largely carried out by the umbrella organisation, with positive effects on the total costs. At the national level, the impact assessment carried out by the Federal Ministry of Finance – validated by the National Regulatory Control Council – estimated the initial costs at some € 100 million, while annual costs were estimated at some € 80 million.²¹⁴

Luxembourg. The financial sector stakeholders interviewed considered that DAC2/CRS was a source of *“huge administrative burdens”*, but were not in the position to provide an estimate. However, based on information presented by the banking association at the AEFI Expert Group, the initial costs could be assessed at around € 50 million, while recurrent costs at around € 5 million per year.²¹⁵

The United Kingdom. No information could be obtained from UK-based stakeholders. However, the costs of implementing DAC2/CRS were estimated in an impact assessment carried out in 2015 by the tax administration. In particular, initial costs were assessed to range between € 50 and € 150 million while annual costs were estimated to range between € 1.5 and € 3 million.²¹⁶

Estimates for Selected Financial Institutions

Leading Banking Group – Western Europe. No estimate was provided, but the implementation of DAC2/CRS was regarded as an *“extremely expensive exercise”*. This applies to both the initial phase (*“we are talking about millions of euros”*) and the ongoing operations (*“you need to adjust the IT system from time to time, re-train people in the local offices, deal with changes in circumstances, etc.”*).

Medium-sized Commercial Bank – Central Europe. The initial cost for implementing DAC2/CRS was marginally below € 800,000. Most of the work was done internally, which greatly helped in keeping costs under control. The bank had a quite high number of reportable accounts, in the order of 70,000 – 80,000, with an average cost of some € 10 per reportable account.

Small Commercial Bank – Southern Europe. The initial costs were in the € 0.5 – 1.0 million range, considered to be quite high (*“it costed us a fortune”*) due to the extensive involvement of external service providers. In the end, the bank had fewer than 1,000 reportable accounts, with an average cost of at least

²¹² The impact assessment (*Wesentliche Auswirkungen*) was carried for the introduction of DAC2/CRS and other measures for the financial sector (e.g. the creation of an account register). The figures presented in the text refer to the implementation of DAC2/CRS only. See https://www.parlament.gv.at/PAKT/VHG/XXV/I/I_00685/fname_423806.pdf.

²¹³ This earlier estimate was provided by M. Patrick Suet, chair of the tax committee of the Fédération Bancaire Française, during a hearing on FATCA held at the French Senate. See Sénat, Comptes rendus de la Commission des Finances, Mercredi 12 février 2014 (hereinafter referred to as the ‘French Senate Hearing’).

²¹⁴ See Opinion of the National Regulatory Control Council annexed to Bundesrat, Entwurf eines Gesetzes zum automatischen Austausch von Informationen über Finanzkonten in Steuersachen und zur Änderung weiterer Gesetze, 14.08.2015 (hereinafter referred to as the ‘NKR Impact Assessment’). The document is accessible at <https://www.bundesrat.de/SharedDocs/beratungsvorgaenge/2015/0301-0400/0352-15.html>.

²¹⁵ The estimate is based on the information provided by ABBL during the AEFI meetings held in November 2016 and June 2017. In the first meeting, the costs incurred for the implementation of FATCA were estimated at € 100 million. In the second meeting, the cumulative cost of FATCA and DAC2/CRS was estimated at some € 150 million, plus a 10% recurring annual cost. See, EC, Expert Group on Automatic Exchange of Financial Account Information - Meeting on 12 June 2017 – Summary Record, 6 July 2017; and EC, Expert Group on Automatic Exchange of Financial Account Information - Meeting on 10 November 2016 – Summary Record, 26 January 2017.

²¹⁶ See HMRC, Tax administration: regulations to implement the UK’s automatic exchange of information agreements, 18 March 2015. The original values were expressed in pounds (£70-209 million for initial costs and £2-4 million for annual costs) and were converted into euros at the exchange rate of 1.35.

€ 500 per account. Operating costs are difficult to estimate, as the bank has few new foreign clients; reportedly, the costs per new cases can sometimes be large (“two cases have been on my desk for months”).

Large Commercial Bank – Northern Europe. The total initial costs for implementing DAC2/CRS were estimated at € 5-7 million. The IT system developed for DAC2 was also shared with some subsidiaries. The bank had some 50,000 accounts screened for indicators, with an average cost of € 100 – 140 per account screened.

Banks of undisclosed size – Southern Europe. With the support of a national business associations, data on DAC2/CRS costs were collected from a number of banks. Bank A incurred in investment costs of about € 400,000 and bear an annual recurrent cost of € 24,000 for about 35,000 reportable accounts; Bank B’s investment costs amounted to about € 600,000 and recurrent costs (including indirect expenditures for administration and IT support) to about € 350,000 per year for about 55,000 reportable accounts. Bank C invested about €3 million in the first year and has running costs of € 2 million for about 11,000 clients (no information on the number of reportable accounts is available). The time required to process new reportable accounts or relevant changes to existing reportable accounts for DAC2 purposes is of about 2 hours per occurrence.

The information on costs presented above is less than ideal for formulating an overall estimate, as the number of countries and financial institutions for which some data could be obtained is limited and, in some cases, the estimates were provided in the form of fairly wide ranges. At the same time, albeit obtained independently from different sources, **the estimates are generally consistent with each other** (e.g. figures for large countries, such as France, Germany and the UK are of the same order of magnitude and the same applies to smaller countries, such as Austria and Luxembourg). Also, **the evidence collected is broadly in line with the estimates found in other studies** concerning the implementation of DAC2/CRS, both in EU countries²¹⁷ and in third countries,²¹⁸ or dealing with the implementation of other mechanisms for exchanging financial information.²¹⁹

The limited number of observations and the variability in certain parameters (especially annual costs) do not all allow calculating an EU estimate of the costs for financial institutions. However, there is little doubt that **the costs incurred by financial institutions were quite substantial** and much higher than those borne by tax authorities. Indeed, **the simple sum of the estimated initial costs in Austria, France, Germany, Luxembourg and the UK yields a total of at least € 340 million**, which is more than ten times the development costs (about € 30 million) borne by the tax authorities in the same Member States. This can easily be explained by considering that, for DAC2, Member States authorities ‘only’ have to transmit the information collected by the financial institutions, and that the bulk of the costs are rather borne in collecting the existing pieces of information and producing new ones when necessary, as plainly

²¹⁷ The costs incurred by financial institutions are analysed in the already mentioned AEOI 2017 Study. Based on interviews in selected countries, the study reports that “Some financial institutions have estimated the start-up costs to be between US\$ 8 million and US\$ 800 million”. Also, according to an interviewee in a Nordic bank, “some financial institutions have invested more than € 100 million in information technology (IT) systems and processes.” Some of these figures appear to be on the high side and it is possible that the estimates mentioned in the study also include costs related to the implementation of FATCA.

²¹⁸ In Australia, the impact assessment carried out prior to the passing of CRS-related legislation estimated the initial costs for financial institutions to be in the range of AUS\$ 52 – 64 million (i.e. € 33 – 40 million), whereas operating costs were estimated at AUS\$ 13 million/year (i.e. € 8 million). These figures are much lower than those provided by financial sector stakeholders during consultations which were estimated to range between AUS\$ 120 million (€ 75 million) for large banks and AUS\$ 20 million (€ 12 million) for smaller ones. See, Commonwealth of Australia, Explanatory Memoranda - Tax Laws Amendment (Implementation of the Common Reporting Standard) Bill 2015, undated (accessible via http://classic.austlii.edu.au/au/legis/cth/bill_em/tlaotcrsb2015658/memo_0.html).

²¹⁹ In the case of the much more limited exchange of information mechanism with the Crown Dependencies and Gibraltar established by the UK in 2014, initial costs for the financial sector were estimated at £20-45 million (€ 15-33 million), while annual costs were expected to be in the order of £7-15 million (€ 5-11 million). See HMRC, The International Tax Compliance (Crown Dependencies and Gibraltar) Regulations 2014, 17 March 2014.

acknowledged by the Member States' authorities.²²⁰ A further discussion of DAC2 costs incurred by financial institutions is included in Box 7.2 below.

Box 7.2 Considerations on the Costs and Burdens Incurred by Financial Institutions

Incremental Nature of the Costs. Some NGO representatives suggested that the information collected by the financial institutions for DAC2 reporting purposes may have some commercial value. Accordingly, *"not all the costs incurred by banks should be considered as incremental"*. The theme was discussed during the targeted consultation and this interpretation was flatly denied by financial sector representatives, who regard the information collected for DAC2/CRS of no value whatsoever for commercial purposes, e.g. for client profiling (*"having a foreign TIN is of no use for us"*).²²¹ In this respect, DAC2 differs from other obligations placed upon financial institutions by the EU legislation in recent years (*"in the case of MiFID one could argue that information is helpful for segmenting clients. But DAC2 details are worthless for us"*). The available evidence thus suggests that compliance with DAC2/CRS generates incremental costs, as the data collected are of no or negligible value for the financial institutions.

EU vs National Origin of Administrative Burdens. The question has been raised as to whether the administrative burdens incurred by financial institutions are linked to the EU legislation or rather result from specificities that may have been introduced in the national legislation. In a few cases, the financial sector stakeholders interviewed did mention the existence of differences between two or more countries, but these differences concern relatively marginal aspects (e.g. in some countries scanned documents are accepted, in others the national legislation makes reference to hard copies). The key point is that the bulk of the administrative burdens depends upon the definitions and parameters set at the OECD and EUEU level and, in this respect, no appreciable variations across Member States have emerged. Overall, the available evidence indicates that the differences in national legislations did not have a significant impact on the overall costs or administrative burdens specifically for the countries for which information on costs is available (as discussed in Box 7.1 above).

DAC2/CRS vs FATCA-related Costs. During the early phase of the Assignment, discussion arose about whether the costs incurred by financial institutions for the implementation of DAC2 are additional to those already borne for the implementation of FATCA, especially considering the similarities of the two frameworks. The interviews with the financial sector stakeholders generally suggest that the experience gained with FATCA allowed some savings in the initial stages (*"FATCA was a sort of training ground, so it helped in understanding the implications of DAC2"*). Some interviewees also noted that tools initially developed for FATCA could be reused for DAC2 (*"an electronic search programme is an electronic search programme, it doesn't change"*). However, since FATCA and DAC2/CRS are based on similar but not identical concepts and definitions, the bulk of work had to be redone (*"there are similarities between FATCA and the CRS; but 'similar' is not 'identical'. You cannot just copy-paste FATCA in order to implement the CRS"* accordingly *"all implementation steps needed to be completely prepared and discussed again"*). A major difference between FATCA and DAC2/CRS is that the latter had a much broader scope, and this had a major impact on the costs to financial institutions that were only marginally affected by FATCA (*"some banks didn't do much with FATCA because they had few US customers and they handled it in a manual/semi-automated manner; it was DAC2/CRS that forced them to make the change towards automated processing"*). Overall, the available evidence suggests that the costs estimated for financial institutions are indeed additional to those previously incurred for FATCA.

7.4 Costs and cost savings for taxpayers

Two categories of costs and cost savings accrue to taxpayers,²²² and namely: (i) the **DAC2 costs** which arise because certain account holders need to provide additional information to their

²²⁰ Cf. in Section 10.1 below the discussion on the possibility of removing the availability clause from DAC1, which would require Member State authorities to run additional data collections.

²²¹ The theme emerged also in discussions held in official contexts. During a hearing on FATCA at the French Senate, the chair asked whether the investments required could bring any benefit to financial institutions (*"N'est-ce pas là un investissement concurrentiel, susceptible de vous acquérir de nouveaux clients?"*) but this was denied by banking sector representatives in rather drastic terms (*"C'est plutôt un investissement pour les perdre.... Nos clients pourraient être mécontents de ces nouvelles interrogations. Le coût, en moyenne, est donc au moins de 1 000 euros par client, qu'il faut comparer avec le rendement moyen annuel d'un compte : il faudra cinq à dix ans pour récupérer l'investissement"*).

²²² DAC4 burdens for multinational enterprises would in principle represent a third category. The provision has been introduced only recently, and thus a cost analysis would not yet be appropriate, considering that burdens tend to be reportedly higher in their first occurrence due to the addressees' limited familiarity. Only two responses on this aspect

financial institutions; and (ii) the **pre-filling burden reduction**, when AEOI information is used to pre-fill the yearly tax declaration.

DAC2 Taxpayer Costs. The implementation of DAC2 resulted in administrative burdens also for the taxpayers, i.e. for the account holders which had to provide information on their tax residency status. In the vast majority of cases, the status could be quickly ascertained based on the information already available to the financial institutions. However, in the remaining cases, **the financial institutions had to interact with their clients in order to clarify their tax residency and get the necessary identification elements.** The modalities of this interaction varied significantly, depending on various factors. In countries where remote banking is well developed (e.g. the Baltics), the collection of information was largely done on line, with a limited need for direct interaction. In contrast, in countries where the banking activities still entail a strong face-to-face element (e.g. Italy and France) or where the law prescribed the submission of information in hard copy (e.g. Sweden), clients typically had to visit their bank. In the more complex cases – e.g. when account holders had to retrieve their TIN in the country of fiscal residence or had to clarify why a TIN could not be provided – the interaction was more complex and time-consuming, often requiring inquiries with the tax authorities in the country of residence and more than one visit to the bank.

The administrative burdens borne by account holders for the provision of DAC2-related information could be estimated by multiplying: (i) the number of direct interactions with financial institutions; (ii) the average time per interaction; and (iii) the monetary value of this interaction. No reliable information is currently available on the first two parameters and, therefore, **an estimate of the DAC2 burdens borne by taxpayers is not available.** However, the number of direct interactions is likely to be significant, as in the EU there are some 600 million accounts, of which nearly 9 million were reported under DAC2.²²³

Pre-filling burden reduction. According to the YA, **three Member States reported using the information exchanged via DAC1 – AEOI for the pre-filling of tax declarations**, with resulting time savings for taxpayers. In particular, the pre-filling is practiced: (i) in Lithuania since 2015 for EI and DF; (ii) in Slovenia since 2016 for PEN; and (iii) in the Netherlands since 2017 for PEN. Based on the information from the AEOI Statistics, nearly 220,000 taxpayers benefitted from this facility.

The burden reduction associated with the pre-filling of tax declarations can be monetised on the basis of the SCM. The time per occurrence saved by taxpayers thanks to the pre-filling is not known precisely. However, based on information retrieved from earlier studies and cross checked with some tax advisors, the time savings can be estimated to range between 15 and 30 minutes per taxpayer.²²⁴ Following standard practices, the time savings can be monetised by using a measure of the average hourly salary rate.²²⁵ Based on these parameters, for the year 2017 **the burden reduction due to the pre-filling made possible by AEOI is estimated to range between € 0.5 and 1.1 million.**

were received in the PC, and both companies confirmed that this obligation is 'complex'. One company reported that the compliance with this obligation largely relies on existing data, though it generates some additional costs.

²²³ There are, however, different views. In particular, the already mentioned NKR Impact Assessment considered that account holders' interactions with financial institutions only had a modest impact (*Geringfügige Auswirkungen*).

²²⁴ A recent study on personal taxation covering 34 countries found that the filling out of a standard tax return required up to two hours in 16 countries (including NL), between two and five hours in 14 countries and more than five hours in only three countries. See Deloitte, Global comparative study of the personal income tax return process, May 2017. Considering that AEOI data concerns the pre-filling of only a couple of 'fields', 15 to 30 minutes can be regarded as a sufficient time to retrieve the necessary documentary evidence (basically, the pay slip), do the sums and to insert the relevant information.

²²⁵ Namely, the median gross hourly salary rate excluding overheads in the three countries at stake: € 3.1 for Lithuania, € 7.3 for Slovenia; and € 16.0 for the Netherlands, Cf. Eurostat, Earnings statistics, above note 211. This is the approach adopted in the seminal work in this field, Goolsbee A, The 'Simple Return': Reducing America's Tax Burden Through Return-Free Filing, The Brookings Institution, Discussion Paper 2006-004, July 2006

7.5 EU budget support

The administrative cooperation between tax authorities in the field of direct taxation was fostered by the EU not only via the DAC, but also by **providing EU funds to deploy the technologies required and to use the tools and mechanisms created**. This support was provided via the Fiscalis programmes, and namely the Fiscalis 2013²²⁶ and Fiscalis 2020²²⁷ iterations, in whose general objective the administrative cooperation among tax authorities was explicitly mentioned.²²⁸ The funding for the administrative cooperation activities could consist of: (i) support to the EU IT systems for taxation; (ii) financing of ACDT tools and mechanisms, in particular SCs and, since 2015, PAOEs; and (iii) other actions aimed at sharing knowledge and best practices on ACDT themes (e.g. working visits, project groups, and workshops).

The support to the EU IT systems backed the implementation of the AEOI provisions, and in particular the central IT infrastructure. Most of the resources made available by Fiscalis for ACDT purposes went indeed to the development and operation of the CCN network. **The total Fiscalis support to the CCN between 2011 and 2017 amounts to around € 31 million.** Under Fiscalis 2020, between 2014 and 2017, € 18 million were allocated for CCN, that is about € 4.5 million per year. This corresponds to 14% of the total programme envelope over the same period. Under the Fiscalis 2013 programme, € 26.5 million were spent for the CCN, that is slightly more than € 4 million per year. As the CCN provides the basic communication infrastructure for the tax authorities both for ACDT and numerous other purposes, it is not possible to distinguish the amount that should be allocated to DAC.

The IT support is not limited to the CCN infrastructure, as it also includes the **development of software modules for the interoperability of the national IT systems and of standard forms and computerised formats for the exchange of information**, both automatic and non-automatic. Fiscalis 2013 specifically supported the development of the e-forms used for the non-AEOI exchanges, and the XML schemas used for AEOI. Fiscalis 2020 supported the development of software modules which Member States could use (and adapt) for implementing the DAC2 provisions.

The Fiscalis support to the IT systems complements the national investments, but is not a transfer payment and does not offset them. Indeed, the deployment of the national IT systems (e.g. infrastructures, databases, connections between the CLO and the local tax authorities, connections between the tax authority and other public institutions/databases) remain the responsibility of the Member States' tax authorities.²²⁹ That said, **it appears that having undertaken certain expenditures at the EU level resulted in savings** due to economies of scale, especially when common modules or schemas could be developed at the central level and then used by the national authorities.

Concerning OFACDT, **the Fiscalis programmes played a significant role in the financing of SCs and, more recently, PAOEs.** The support was two-fold: on one hand, Fiscalis fostered the creation of horizontal tools to improve the awareness, uptake, and effectiveness of PAOE and SC (e.g. creating working groups for PAOE/SC coordinators, supporting the drafting of operational guidelines); on the other hand, it directly supported the national tax authorities by compensating the operational costs of participation (i.e. travel costs). The latter support shall be considered as a transfer, rather than an additional cost, as it offsets national expenditures.

²²⁶ Decision No 1482/2007/EC establishing a Community programme to improve the operation of taxation systems in the internal market (Fiscalis 2013) and repealing Decision No 2235/2002/EC, 15.12.2017.

²²⁷ Fiscalis 2020 Regulation, cf. above note 61.

²²⁸ The general objective of the programmes is to 'improve the proper functioning of the taxations systems in the internal market by increasing cooperation between participating countries, their administrations and officials' (Fiscalis 2013 final evaluation, at p. 13; Fiscalis 2020 mid-term evaluation, at p.14. Support to administrative cooperation activities are also explicitly included among the operational objectives of both programmes.

²²⁹ Cf. Fiscalis 2013 final evaluation and Fiscalis 2020 mid-term evaluation.

Between 2014 and June 2018, **245 SCs were financed by the Fiscalis 2020 programme** across the various tax areas. In total, the SCs absorbed about € 2 million of support, with an average cost of about € 8,000 per control.²³⁰ It is not possible to distinguish which SCs concerned direct taxation, but considering that the number of SCs in the fields of direct taxation and VAT amounted to around 150-170 per tax area over that period,²³¹ and that a significant share of SCs dealt jointly with direct taxation and VAT, it can be estimated that Fiscalis 2020 did fund a large share of the SCs deployed under the DAC.

The support for PAOE was more limited, with **88 PAOEs financed since 2015**; about € 100,000 of the programme resources were spent on this tool, with an average cost of about € 1,100 per activity. Since each year, on average, around 150-200 PAOEs are organised in the field of VAT and 50 PAOEs in the field of direct taxation,²³² the share of PAOEs financed by Fiscalis is lower than for SCs. Indeed, repeated cross-border PAOEs, which are the majority in the field of ACDT, are usually not financed via Fiscalis.²³³

7.6 Considerations on cost-effectiveness

In this Section, a number of considerations on the cost-effectiveness of the Directive are discussed in order to assess **the extent to which the benefits achieved are commensurate with the costs incurred**. First, the costs for which quantitative estimates could be produced are briefly summarised. When quantitative estimates are not available, the analysis is complemented by a qualitative assessment of the remaining cost items. Then these data are confronted with the available estimates on the benefits produced by the provisions, which remain however very limited, to assess the net impact of the Directive. Importantly, the assessment does not include non-quantifiable benefits, and in particular increased tax fairness and Single Market effects.

Costs of the Directive. As described in the previous sections, the following cost items could be quantified at the EU level:

- (i) the costs of AEOI (for DAC1, 2 and 3);
- (ii) the administrative burdens due to the DAC reporting obligations;
- (iii) the costs borne by the EU budget.²³⁴

At face value, **the total quantified costs generated by the Directive over the 2015-2017 period amount to nearly € 145 million**, with a plausible range of € 141 – 172 million, as shown in Exhibit 7.11. Three potentially significant cost items were not quantified, namely (i) the costs due to non-AEOI tools and mechanisms; (ii) the DAC2 costs for the taxpayers; and (iii) the DAC2 costs for the financial institutions. For the latter item, rough estimates are available, based on limited national data from independent sources (and in particular government reports and impact assessments). Based on these sources, the DAC2 costs for financial institutions would be about ten times as much as those borne by the tax authorities, and those for taxpayers should amount to a few million euros.

Exhibit 7.11 Total DAC Regulatory Costs (2015-2017)

Cost item	Type of cost	EU-28	Per MS	Qualitative considerations
		€ mn	€ '000	
AEOI DAC1 Member States	Development Costs	60.5	2,160	
	Recurrent Costs	13.3	474	
AEOI DAC2 Member States	Development Costs	49.7	1,752	
	Recurrent Costs	4.3	152	
AEOI DAC3 Member States	Development Costs	2.0	72	
	Recurrent Costs	0.8	27	

²³⁰ Cf. Fiscalis 2020 mid-term evaluation, and in particular Annex B3.

²³¹ Cf. Section 4 and the Evaluation of Regulation 904/2010.

²³² *Ibid.*

²³³ Cf. Fiscalis 2020 mid-term evaluation, and in particular.

²³⁴ The EU support for OFACDT activities is a transfer offsetting certain national expenditures; however, it is considered further in the cost analysis since these national expenditures for OFADCT could not be quantified.

Subtotal AEOI	Development Costs	111.6	3,985	
	Recurrent Costs	18.3	653	
	<i>Total</i>	129.9 (126-158)	4,639 (4,500- 5,600)	
Burdens from Reporting Obligations	Recurrent Costs	0.2	8	
EU budget Support	Development Costs	12.6	449	
	Recurrent Costs	1.4	52	
Total		143.9 (141-172)	5,140 (5,000-6,200)	
DAC2 Financial institutions	Development Costs	-	-	About 10 times AEOI DAC2 costs
DAC2 Taxpayers	Recurrent Costs	-	-	No estimate available
Non-AEOI Costs MS	Recurrent Costs	-	-	No estimate available

Source: Authors' own elaboration

A substantial share, € 123 million, consists of development costs – i.e. expenditures on IT systems. **To be properly compared to benefits, their amortisation needs to be taken into account**, as investment costs were incurred up-front, but will produce benefits over time. Hence, costs are discounted over a five-year depreciation period, and the amortisation pertinent to the years 2015-2017 is considered.²³⁵ As shown in Exhibit 7.12, **the regulatory costs for 2015-2017, discounted for the amortisation of the investments, amount to about € 90 million**. Accounting for the estimates of the DAC2 costs borne by the financial institutions, **the total regulatory costs are likely to fall in the range of € 200 – 260 million**.

Exhibit 7.12 DAC Regulatory Costs – with amortisation (2015-2017)

Cost item	Type of cost	EU-28	Per MS	Qualitative considerations
		€ mn	€ '000	
AEOI DAC1 Member States	Development Costs	27.2	972	
	Recurrent Costs	39.8	1,423	
AEOI DAC2 Member States	Development Costs	9.8	351	
	Recurrent Costs	4.3	152	
AEOI DAC3 Member States	Development Costs	0.4	14	
	Recurrent Costs	0.8	27	
Subtotal AEOI	Development Costs	37.4	1,337	
	Recurrent Costs	44.9	1,602	
	<i>Total</i>	82.3	2,939	
Reporting Obligations	Recurrent Costs	0.2	8	
EU budget	Development Costs	5.2	187	
	Recurrent Costs	1.4	50	
Total		89.2	3,184	
DAC2 Financial institutions	Development Costs	-	-	About 10 times AEOI DAC2 costs
DAC2 Taxpayers	Recurrent Costs	-	-	No estimate available
Non-AEOI Costs MS	Recurrent Costs	-	-	No estimate available

Source: Authors' own elaboration

Box 7.3 Simplification Potential

As shown in Exhibits 7.11 and 7.12, most of the costs generated by the Directive are development costs, i.e. the one-off investment in the IT systems and procedures necessary to collect, store, and exchange the AEOI data, by both national tax authorities and financial institutions. As these costs were incurred upfront during the early implementation of the act, and since the recurrent costs for the operation and maintenance of the system are fraction of the former, there is no significant simplification potential for most of the costs measured above.

²³⁵ Five years-year is the typical period of amortisation for IT equipment according to the rules. DAC1 costs incurred 'up to 2015' were attributed to that year, and all DAC2 and DAC3 costs incurred 'up to 2017' were attributed to that year. To address outliers and gaps in the data series, DAC1 development costs have been attributed as follows: 50% to 2015; 25% each for 2016 and 2017. For DAC1, three years of amortisation of 2015 costs, two rounds for 2016, and one round for 2017 were accounted for. For DAC2 and 3, one year of amortisation for 2017 costs was accounted for.

Other recurrent costs include the administrative burdens generated by the reporting obligations for national tax authorities. However, the effort required is limited, at about 12 persons/days per year per Member State. Rather, a possible simplification could concern the reduction of the hassle costs generated by the duplicated reporting under EU and other international frameworks, and the improvement of the feedback returned to the Member States on the use and usefulness of the information provided annually to the Commission.

Finally, albeit no estimate of the costs generated is provided, a simplification potential could consist in streamlining non-AEOI procedures and tools, an area in which the Commission is already progressing via the development and deployment of the new e-forms.

Cost-effectiveness. The few national data available on the additional tax assessed due to the Directive seem to suggest that ***the benefits could easily exceed the costs generated by the Directive***. Indeed, although data on additional tax assessed are available from only a very limited number of Member States,²³⁶ the additional tax assessed reached up to € 624 million,²³⁷ of which € 92 million from the AEOI, and € 532 million from EOIR, SEOI, and OFACDT. At first glance, these values are higher than the overall DAC costs for the EU, estimated above at € 200 – 260 million.

However, ***these data need to be interpreted with caution*** for two reasons. First, the additional tax assessed based on the information collected thanks to the ACDT tools does not necessarily generate additional tax revenues. Indeed, the claims of tax authorities can be resisted by the taxpayers in courts or via administrative procedures. In all likelihood, only a share of the additional tax assessed today will generate actual additional revenues. Secondly, most of the additional tax assessed is concentrated in only two countries: Belgium and Sweden, which accounts for about four-fifths of, respectively, the AEOI and non-AEOI benefits. If these outliers are excluded, the total tax assessed amounts to around € 135 million.

Given the uncertainties described above, it is not possible to extrapolate these data for an EU-level cost-benefit analysis. Hence, the analysis focuses on the MS for which benefit data are available.²³⁸ ***In all the nine Member States for which benefit data are available, the additional tax assessed thanks to DAC overcomes the costs borne by the tax authorities for its implementation.*** Limiting the comparison to AEOI- data being available for five countries – in all cases the additional tax assessed is higher than the AEOI costs.²³⁹

If the costs for the implementation of DAC2 borne by the financial institutions are included in the analysis, the findings remain positive. Once the amortisation of IT investment is taken into account, in all nine Member States the additional tax assessed overcomes the sum of the costs borne by the tax authorities and the private operators.²⁴⁰ Limiting the comparison to AEOI only, positive net benefits have been generated in four Member States out of five.

This conclusion needs to be qualified by taking into account another factor: the time-scale of the costs and benefits generated by the Directive. The DAC has indeed generated large up-front costs, in i.e. for the investments in IT systems, while the ***benefits will materialise over time in the subsequent years***. Not only were very few Member States in a position to quantify the benefits, but the growth in the tax assessed, especially as a result of the AEOI exchanges, is only now starting to occur, given that many, if not most, Member States authorities have only

²³⁶ Six Member States for AEOI benefits, and six (partly overlapping) Member States for non-AEOI benefits.

²³⁷ The data on the additional tax base, as reported by Finland and Belgium, have been converted into tax assessed using a 25% conversion factor, as discussed with the tax authorities.

²³⁸ As described in Section 6 above, data on benefits are available from nine Member States. More in details, data for both AEOI and non-AEOI benefits are available for Estonia and Poland, data for AEOI benefits only for Belgium, Finland, and Slovenia; data for non-AEOI benefits only for Sweden, Germany, Lithuania, and Bulgaria.

²³⁹ Considering the amortisation of IT investment. At gross value, the additional tax assessed thanks to AEOI is higher than the AEOI costs in four countries out of five.

²⁴⁰ At gross value, in four Member States out of nine the additional tax assessed overcomes the sum of costs borne by the tax authorities and the private operators.

recently started handling and processing the new data in a way that will be conducive to more targeted audits and risk assessments in the following years.

Considering that DAC benefits are expected to grow, while most of the costs have already been incurred, **over the medium-to-long term, the net benefits of the Directive are also likely to grow** and become larger than what has already been accomplished over the 2015-2017 period. At the same time, given that there is yet no information on the extent to which additional tax assessed will create additional tax revenues, and given the low number of Member States for which benefit data are available, this assessment is affected by a considerable degree of uncertainty.

7.7 Summing up

The Directive to be evaluated is not necessarily 'new', as its original version was adopted in 2011. However, it was subject to repeated amendments, some of which have entered into force only recently or very recently, while part of its original provisions – namely DAC1 AEOI – became fully operational only as of 2015. This means that **it is yet too early to provide a definitive judgment on whether the outcomes achieved were commensurate with the costs incurred.**

The recent operationalisation and adoption of many ACDT provisions makes the data, and thus the analysis, skewed towards the cost-side. **Most of the costs generated by the Directive come from the AEOI mechanisms**, whose implementation required about € 130 million from national budgets and an additional € 31 million of EU support. The national costs were largely incurred for the development of the IT systems (about 85% of the costs so far). DAC2 IT costs for financial operators are also likely to be significant, and some independent sources put them at ten times the costs borne by the tax authorities – though no robust quantitative estimate could be provided.

Moving from a cost-only to a cost-benefit perspective, **DAC is a Directive which generates costs up front, and benefits in the medium-to-long term**, because not only do its provisions need to be made operational over time, but also because the tax authorities need to 'get to know' the data received and how to use them. To complicate the analysis further, first, most of Member States could provide data on the costs borne, but few on the benefits achieved; secondly, the extent to which the additional tax assessed will become actual additional revenues for the Member States remains uncertain. Hence, an EU level cost-benefit analysis of the DAC cannot be carried out.

With all these caveats in mind, the Study does provide an estimation of whether, in the countries for which benefit data are available, the net benefits that the Directive has generated so far are positive or not. In all these Member States, the regulatory costs borne by the public authorities for implementing the DAC are lower than the additional tax assessed. Even when considering also the likely costs for financial institutions, benefits can be assessed to have overcome the costs in most cases. Subject to a number of caveats which affects the certainty of any firm conclusion, it is therefore possible to infer that **over the 2015-2017 period, the Directive has generated positive net benefits**, when measured in terms of additional tax assessed.

Since a large share of the costs due to the AEOI systems have already been borne and considering that the benefits will grow the more the tax authorities effectively use the data received, **over the medium-to-long term the net benefits can be reasonably expected to grow.** At the same time, given that there is yet no information on the extent to which additional tax assessed will create additional tax revenues, and given the limited availability of data on benefits, the degree of uncertainty of this assessment remains significant. Importantly, the above analysis does not concern other non-quantifiable benefits, and in particular increased tax fairness and the proper functioning of the Single Market effects.

8 COHERENCE

8.1 Introduction

This Section presents the assessment of the **coherence** of the Directive. In particular, Section 8.2 analyses the **internal coherence** of its provisions, while Section 8.3 deals with **the external coherence** of the DAC with other pieces of EU legislation and the OECD framework. Section 8.4. summarises the main findings. The Section is based on the information provided by the Member States in the QFD and on the feedback collected from the targeted consultation of tax authorities and other stakeholders. This information allowed identifying the provisions which generate loopholes, gaps, inconsistencies or synergies, and to verify the seriousness of the identified problems. The targeted consultation has been complemented by desk research to further investigate the emerging issues.

8.2 Internal coherence

The assessment of the internal coherence of the DAC focuses on a number of issues which have emerged from the targeted consultation and the QFD with respect to a number of legal standards or definitions which may cause a degree of legal uncertainty, and with regard to the timing with which the data for DAC1 and DAC2 need to be transmitted. As the assessment is to focus on unclear definitions and possible legal mismatches, it does not cover a number of other provisions of the DAC for which no coherence issue has emerged.

Taxes and fees. Article 2 defines the scope of the Directive, which applies to all taxes, except for those covered by other EU acts on administrative cooperation (VAT, customs duties, and excises); compulsory social security contributions are also explicitly excluded. According to Article 2(3) the term taxes shall never be construed as covering fees and contractual duties. Having a clear understanding of what 'tax' means is an obvious pre-requisite for the functioning of the mechanisms for the exchange of information. The difference between taxes and fees may not be immediately clear in all cases and across all national and local jurisdictions. However, in the QFD, only **one Member State mentioned that the difference between fees and taxes caused problems in the application of the other provisions of the Directive**. Consistently, the tax authorities interviewed confirmed that the detriment caused by inconsistencies is limited, and at any rate would not justify a revision of the Directive.

Foreseeable relevance. Article 1 defines the subject matter of the Directive as the information that is 'foreseeably relevant to the administration and enforcement' of the national fiscal legislations. Again, this is a pre-condition for the exchange of information, as the tax authorities may not proceed in sharing the information when its foreseeable relevance is not proved by the requesting authority. **This standard may leave a grey area, creating legal uncertainty and leading to internal incoherence with the duty to reply to requests for information as per article 5. In practice, however, this is not the case.** In 2017, based on the answers to the QFD, only two Member States reported the refusal of a request for information because of the lack of foreseeable relevance (and in one case, this was resolved by providing further clarifications). As for the receiving end, only one Member State reportedly refused to reply to one or more requests for failure to comply with this requirement. While this may lead to some delays because of the additional information that is required to be collected by the receiving authority, the number of instances in which the foreseeable relevance of a request is disputed is negligible, and any dispute is usually resolved by providing additional information. As such, **the standard of 'foreseeable relevance' does not create coherence issues for the implementation of the Directive**. This is further confirmed by the lack of cases before the CJEU on the interpretation of this standard (see Box 8.1 below).

Box 8.1 The CJEU jurisprudence

The DAC has been affected by only two EU judgments. One case concerned the DAC only incidentally, and rather focused on whether a certain national fiscal provision was distortionary of the Single Market.²⁴¹ The other case²⁴² focused more directly on the DAC, and in particular on the standard of 'foreseeable relevance'. Among other questions, the Court was called upon to decide: (i) whether the foreseeable relevance is a necessary condition for the requested Member States to comply with a request for information, and thus a condition of the legality of the information request that is eventually addressed to the taxpayer; and (ii) whether the national court which is called to judge upon the legality of the information order can also verify the respect of the foreseeable relevance standard, and through which probatory means. The Court affirmed that: (i) the foreseeable relevance is a condition that the request for information must meet, so that it becomes a condition for the legality of the ensuing information request issued by the requested authority to the taxpayer; (ii) the requested authority must satisfy itself that the request is not devoid of any foreseeable relevance, based on the identity of the taxpayer and on the features of the tax investigation for which the information is requested; and (iii) the national court which needs to judge on the legality of the information order can verify the foreseeable relevance of the underlying request, by accessing that request as sent by the other Member State.

Group requests. A group request consists of a request for information on taxpayers not individually identified, but which have certain characteristics in common.²⁴³ Group requests are not prohibited under DAC, even though the Directive does not explicitly refer to them. Reference to group requests is not explicitly included in Article 5 on the EOIR, nor in Article 17, where the limits to the EOIR are spelled out. Additionally, Article 1 simply refer to the standard of 'foreseeable relevance' without imposing further limits on the 'dimension' of the requests. The possibility for issuing group requests is further substantiated by the revised commentary to Article 26 of the Model Tax Convention²⁴⁴ and the EOIR Terms of Reference for the second Global Forum peer review exercise.²⁴⁵

At the same time, Article 20 establishes that the requests for information and administrative enquiries shall be sent, as far as possible, using a standard form, which has to include information on the identity of the person under examination or investigation – hence, it remains possible to send requests for information via non-standard means, which may not include information on the identity of the taxpayer.

According to the QFD, **the handling of a group request seems to be problematic only in a negligible number of cases.** Most importantly, **the number of group requests is very limited** in the first place.²⁴⁶ According to the QFD, only five Member States sent one or more group requests in 2017, and none of them has encountered a straight refusal, even though in some cases additional information had to be provided to prove the foreseeable relevance.

Purposes other than taxation. According to the QFD, the Member States consider the possibility to use ACDT information for purposes other than taxation – in particular AML and tackling of financial crimes – as one of the main strengths of the Directive. This is allowed by Article 16(2), which states that the information can be used for other purposes when (i) its use is legal in the requesting Member State; and (ii) it is so permitted by the authority communicating the information; such a permission shall always be granted when the same use would be lawful in the Member State communicating the information. In 2017, 12 Member States

²⁴¹ Case C-133/13, Judgement of 18 December 2014, *Staatssecretaris van Economische Zaken, Staatssecretaris van Financiën v Q*, EU:C:2014:2460.

²⁴² Case C-682/15 Judgment of 16 May 2017, *Berlioz Investment Fund SA v Directeur de l'administration des contributions directes*, EU:C:2017:373.

²⁴³ For example, taxpayers that have an account with a particular bank and have invested in a financial product marketed by a financial service provider on the basis of misleading tax information.

²⁴⁴ OECD (2012), Update to Article 26 of the OECD Model Tax Convention and its Commentary Approved by the OECD Council on 17 July 2012.

²⁴⁵ OECD (2016) Terms of Reference to Monitor and Review Progress Towards Transparency and Exchange of Information on Request for Tax Purposes.

²⁴⁶ The limited numerosity and problematicity was also confirmed by the presentation carried out by several Member States during the WG ACDT 43rd meeting – 27 September 2018, Minutes of the meeting, 4 October 2018.

did use ACDT information for other purposes, mostly for less than 10 cases per year.²⁴⁷ At least eight Member States received a request to use the information for other purposes, and they generally granted permission (e.g. 'in all cases in which this is permitted in the jurisdiction of the requesting authority, and also in other cases, provided that the defendants' rights are not unduly imperilled'). Only when the use of that information would be explicitly prohibited under the originating country's national legislation, the permission is denied; however, this rarely occurs. **Hence, even though there remain some doubts about the exact meaning of this principle** – and not even a recent Fiscalis group could provide sufficient clarity – **in practice the need to ask for permission for using information for other purposes does not cause much of a problem for the information received on request or spontaneously.**²⁴⁸ Most of the authorities participating in the targeted consultation, however, agreed that they would still appreciate more clarity on the matter, especially in order to reduce the administrative burden of having to request permission on a case-by-case basis. One country also mentioned that the data received through the AEOI should then be considered as 'national data', and thus could be used for whatever purpose is lawful in the receiving country.

The timing for sending DAC1 and DAC2 data. According to Article 8(6), the deadlines for the communication of DAC1 and DAC2 information are as follows: for the former, six months after the end of the tax year during which the information became available; for the latter, nine months after the end of the calendar year to which the information refers. The use of different deadlines may generate confusion for the tax authorities. Actually, **the difference in the deadlines is appreciated by the tax authorities, and only two of the participants to the targeted consultation would like to see them harmonised.** Indeed, having different deadlines prevents a peak in the usage of the IT infrastructure that could arise if both DAC1 and DAC2 data had to be sent and received around the same dates. Furthermore, it was pointed out that the dates indicated in the Directive are indeed deadlines: if an authority prefers to send DAC1 and DAC2 data at the same time, it can already do so under the current legislation.

During the interviews, tax authorities underlined that, although "*clarifications are always welcome*", **none of the problems caused by the items discussed above would justify reopening the Directive.** Instead, they suggested that soft law, e.g. non-binding guidelines, could be utilised, similarly to what is done by OECD with the Commentaries.

8.3 External coherence

The assessment of the external coherence of the Directive focuses on three EU acts:

- 1) The Regulation on administrative cooperation in VAT matters,²⁴⁹ discussed in Section 8.3.1; and
- 2) The Recovery Directive,²⁵⁰ analysed in Section 8.3.2;
- 3) The Anti-Money Laundering Directive,²⁵¹ analysed in Section 8.3.3.

Furthermore, selected aspects on the alignment of the DAC with the concurrent obligations arising for EU Member States from the OECD obligations are evaluated in Section 8.3.4.

8.3.1 Administrative Cooperation in VAT matters

The Regulation on administrative cooperation in VAT matters is the '**twin**' legislation of the DAC with respect to a specific form of taxation that is the indirect tax on the consumption of goods and services. As such, **the two pieces of legislation share the same objectives:** (i)

²⁴⁷ Source: QFD.

²⁴⁸ Some problems remain with respect to the use of AEOI data for other purposes, as there is no common approach about how to do it in practice. However, the permission to use data for other purposes is usually asked for data received spontaneously or on request, and rarely for information automatically exchanged. Cf. Fiscalis Workshop 098, Use and Disclosure of Information exchanged under the Council Directive 2011/16/EU, FWS/098/001, 27.9.2018.

²⁴⁹ Cf. above note 32.

²⁵⁰ Cf. above note 34.

²⁵¹ Cf. above note 40.

ensuring the proper functioning of the Single Market; (ii) protecting tax revenues and fighting against tax frauds; and (iii) contributing to the fairness of the tax system.²⁵² **They also share the institutional framework**, as in 14 Member States the CLO is in charge of administrative cooperation both for direct taxation and VAT matters²⁵³, and **the information communication system** is the CCN network.

The tools placed at the disposal of the national tax authorities by the two acts are also similar. The Regulation on administrative cooperation in VAT matters provides for the following mechanisms: EOIR, AEOI, SEOI, assistance to notification, PAOE, and simultaneous controls. In addition, it also establishes **some mechanisms which are not available under the DAC**, and in particular:

- 1) Electronic storage of information, which other national authorities can access by automated means;²⁵⁴
- 2) Eurofisc, which is a network of national tax analysts collaborating in the identification of cross-border VAT frauds²⁵⁵;
- 3) The VAT Information Exchange System, a search engine allowing to verify the VAT number of EU taxable persons.

Box 8.2 Joint audits vs. administrative enquiries carried out jointly

The revised VAT regulation²⁵⁶ added the 'administrative enquiries carried out jointly' to the tools available to the Tax Authorities. Under this tool, the officials from the requesting authority are given the power to access premises, interview individuals and examine records 'as if' they were from the requested authority.²⁵⁷ In the proposal for the revision of the Regulation on administrative cooperation in VAT matters, a more radical reform of administrative enquiries carried out jointly was proposed, and they were originally called 'joint audits'. The final text adopted by the Council eventually removed the term 'joint audits' and introduced a number of caveats, so that the exercise of a certain power by the requesting authority can be subject to the limits spelled out in the national legislation of the requested authority. The final text comes very close – possibly equivalent – to the 'active presence' foreseen in Article 11(2) of the DAC. As the former provision is very recent, it is yet unclear the extent to which the possible differences in these two tools could cause issue when carrying out PAOE for both VAT and DT, and no tax authority could already share any positive or negative experience on this aspect.

Besides the available tools, **other differences concern the overall approach.** First and foremost, the choice of the legal instrument is different as, in the area of indirect taxation, Regulations can be issued by the Council,²⁵⁸ while this is not possible for all types of taxation. Secondly, while the emphasis in the DAC is very much on AEOI, in the field of VAT this remains a residual instrument.²⁵⁹ Thirdly, under the VAT more 'advanced' tools can be used, and in particular the automated access to other Member States' data and Eurofisc.

However, the similarities in the approach, the objectives, and the available tools prevail over the differences, so that **the two acts present limited and very specific problems of coherence**, and rather **create a number of synergies at the institutional and technical levels.** The most important synergy concerns the use of the EU CCN – and therefore the possibility for

²⁵² Cf. Recitals 2 and 3 of the Regulation on administrative cooperation in VAT matters; Evaluation of Regulation 904/2010.

²⁵³ Source: QFD, Part I.

²⁵⁴ Article 21 of the Regulation.

²⁵⁵ *Ibid.*, Title X.

²⁵⁶ Council Regulation (EU) 2018/1541 of 2 October 2018 amending Regulations (EU) No 904/2010 and (EU) 2017/2454 as regards measures to strengthen administrative cooperation in the field of value added tax.

²⁵⁷ Articles 28(2a) and 7(4) of the Regulation – the latter when used together with an EOIR.

²⁵⁸ The legal basis of the Regulation on Administrative Cooperation is only Article 113, while the DAC relies upon both Articles 113 and 115. While Article 113 TFEU allows the Council to adopt 'provisions' for the harmonisation of legislation in the area of turnover taxes and indirect taxation, for the harmonisation of other fiscal norms directly affecting the Single Market Directives must be used, *ex Article 115*.

²⁵⁹ About 60,000 records are exchanged per year in the fields of VAT concerning two categories of information: (i) on non-established taxable persons, and (ii) on new means of transport. Not all Member States participate in both AEOIs. Cf. Evaluation of Regulation 904/2010.

Member States to also adopt the same IT system at the national level – and similar e-forms system.²⁶⁰ Another synergy arises from the possibility of designating the same CLO under the two acts. In the words of one tax authority official, these two synergies “*enhance the coherence of the two acts, even though the cooperation in the area of VAT is considered as more advanced*”.

Accordingly, most of the tax authorities participating in the targeted consultation consider that **the two acts are coherent, and only a limited number of problems emerge in their daily operation**. This is also acknowledged in the recent evaluation of Regulation 904/2010, in which the two acts are deemed to pursue similar objectives with similar tools, and to provide the same level of assistance.²⁶¹ The few criticisms raised concern the following issues:

1. **Differences in administrative enquiries.** Prior to the 2017 revision, there were significant differences between the two acts, as in the VAT field only a passive presence of the hosted officials could be envisaged. The revision did reduce the incoherence, but this tool remains slightly different under the two acts. However, given the final text adopted by the Council, it is yet unclear whether the newly introduced ‘administrative enquiries carried out jointly’ will be fundamentally different from the DAC administrative enquiries, as the latter gives foreign officials the possibility to interview individuals and examine records in so far as this is permitted under the receiving country’s legislation. While the impact of this difference is yet unclear, some of the tax authorities interviewed underline that, especially since the same enquiry can deal with both VAT and other taxes, it is very important that a close alignment in administrative enquiries between the two acts is maintained.
2. **Differences in the deadline for EOIR.** Under the Regulation on administrative cooperation in the field of VAT, the deadline for replying to an EOIR is set at three months, and one month when the authority is already in possession of the information – that is half of the time provided by the DAC. Three tax authorities mention the different deadlines as a potential problem; however, their main concern – discussed below – remains the different deadlines between EU and OECD provisions for the same tool²⁶². One authority suggested adopting a standard 90-day deadline for all requests.
3. **Forwarding information to another Member State.** Under Article 55(4) of the Regulation on the administrative cooperation in the field of VAT, when information is likely to be useful to another Member State, the receiving authority may forward it and inform the sending authority. The latter may, in turn, require that any transmission of its information to another Member State is subject to its prior agreement. Under the DAC, the receiving authority wishing to forward information to another Member State should inform in advance the sending authority, which may oppose within 10 days. One tax authority official suggested that the VAT provision is much simpler, and that the two acts should thus be harmonised based on that approach. It must be noted that, in practice, the two provisions are procedurally different, but substantially similar as in both cases the sending authority retains the power to prevent forwarding. However, the VAT provision is indeed less burdensome, as it allows the sending authority to identify *ex ante* when and if the information can be forwarded, without requiring a further interaction to ask for permission.

8.3.2 Recovery Directive

The Recovery Directive establishes the framework for the mutual assistance by the Member States for the recovery of claims related to taxes, duties and other measures.

It repeals the previous version of the Directive which limited such a mutual assistance to specific types of taxes and duties.

The latest version of the Recovery Directive pre-dates the DAC by a few months. **Both Directives are based on a similar approach, even though their scope of application is**

²⁶⁰ *Ibid.*

²⁶¹ *Ibid.*

²⁶² Cf. Commentary to Article 26 at §10.4; Article 5.6 of the OECD *Agreement on the Exchange of Information on Tax Matters* (Model TIEA, 2002); and the 2016 EOIR Terms of Reference at § 15.

different. As for the similarities, both Directives share the same objectives, that are: (i) the preservation of Member States' revenues, (ii) the proper functioning of the Single Market, and (iii) the fairness of the tax system.²⁶³ Furthermore, they rely on a number of similar tools, such as the possibility to submit EOIRs and carry out PAOEs, and to require assistance in notification. The Recovery Directive also relies on the CCN and on a number of standardised forms. Finally, in terms of the applicable institutional framework, the Recovery Directive also provides for the establishment of a CLO. However, only in three Member States does the same CLO deal with both acts.

As for the different scope, while the DAC covers only taxes that are not dealt with in other specific EU acts, the Recovery Directive applies also to (i) duties; (ii) certain funds granted in the context of the EU agricultural policies; (iii) penalties, fees, interests and other costs relating to the claims for which a mutual assistance is requested. **The difference in the scope is not reported as a cause of concern by tax authorities.**

As a whole, **there is no issue of coherence between the DAC and the Recovery Directive. To the contrary, synergies arise**, since the latter benefit from the improved exchange of information made possible by the former. As acknowledged in the recent Evaluation of the Recovery Directive, 'tax recovery assistance benefits from other recent improvements of information exchange', such as DAC1 AEOI and DAC2, and by the explicit provision spelled out in Article 16(1) of the DAC which allows information to be used for tax recovery purposes.²⁶⁴

8.3.3 Anti-Money Laundering

The EU AML framework aims at ensuring the "soundness, integrity and stability of credit and financial institutions [...] against the risk of money laundering and terrorism financing".²⁶⁵ More in detail, money laundering consists of the enjoyment, both in-kind and monetary, of the proceedings from criminal activities; accordingly, the AML legislation aims at preventing criminals from benefitting from assets, which have a criminal or illicit origin, by disguising their true nature, source, or ownership, and transforming them into legitimate proceedings.²⁶⁶ The EU framework is based on the so-called **4th AML Directive**,²⁶⁷ approved in 2015 and to be transposed by early 2017, which was recently amended by the **5th AML Directive**.²⁶⁸ The Directive is then complemented by the Council Decision which regulates the cooperation of police authorities in this field.²⁶⁹

The interaction between the AML framework and the DAC Directive mostly concerns the AEOI of financial information, as the link between AML and tax evasion has been explicitly acknowledged by the Commission.²⁷⁰ The synergies between the two legislations are sought whenever information required for DAC2/CRS purposes is already available because of the AML compliance. In particular, the DAC provides that when the holder of a reportable account is an intermediary structure (that is a passive non-financial entity), the reporting financial

²⁶³ Cf. Recital 1 of the Directive and the Recovery Directive Evaluation, at § 3.2.

²⁶⁴ Recovery Directive Evaluation, at p. 59-60.

²⁶⁵ Commission Staff Working Document, Impact Assessment Accompanying the document "Proposal for a Directive of the European Parliament and of the Council on the prevention of the use of the financial system for the purpose of money laundering, including terrorist financing and Proposal for a Regulation of the European Parliament and of the Council on information accompanying transfers of funds", SWD (2013)21, 5.2.2013, at p.5.

²⁶⁶ *Ibid.*, at p. 8.

²⁶⁷ Cf. above note 36.

²⁶⁸ Directive (EU) 2018/843 of the European Parliament and of the Council of 30 May 2018 amending Directive (EU) 2015/849 on the prevention of the use of the financial system for the purposes of money laundering or terrorist financing, and amending Directives 2009/138/EC and 2013/36/EU.

²⁶⁹ Council Decision 2000/642/JHA of 17 October 2000 concerning arrangements for cooperation between financial intelligence units of the Member States in respect of exchanging information. The repeal of this act has been proposed by the Proposal for a Directive of the European Parliament and of the Council laying down rules facilitating the use of financial and other information for the prevention, detection, investigation or prosecution of certain criminal offences and repealing Council Decision 2000/642/JHA, COM (2018)213, 17.4.2018.

²⁷⁰ Cf. Proposal for a Council Directive amending Directive 2011/16/EU as regards access to anti-money-laundering information by tax authorities, COM(2016)452, 05.7.2016, at p. 4 (hereinafter the 'DAC5 Proposal').

institution is called upon to communicate the 'controlling person' of that entity. This information is already likely to be collected under the AML legislation (in which controlling persons are defined as 'beneficial owners').²⁷¹ While this obligation was already enshrined in DAC2 to ensure that the tax authorities have full and comprehensive access to AML information, the DAC5 amendment was introduced in 2016. It establishes, in the newly-added Article 22(1a), that 'Member States shall provide by law for access to the tax authorities to the mechanisms, procedures, documents and information' established by or produced in compliance with the AML Directive. This provision could be further reinforced by the proposed amendment which would allow tax authorities to access not only AML documents and information held by financial institutions, but also the 'national centralised bank account registries or data retrieval systems' to conduct criminal investigation.²⁷²

The synergies between the DAC and the AML legislation could reduce the compliance efforts for the financial operators, which can 'recycle' the information without having to request it again from their customers. However, **the achievement of these synergies has been partially thwarted by the differences between the DAC2/CRS definitions and those included in the AML.** In particular,²⁷³ (i) the information on controlling persons of passive non-financial entities which must be reported under DAC2 as a beneficial owner was not always collected in the context of AML obligations; (ii) the definition of controlling persons is very similar, but not identical, to that of beneficial owners under the AML legislation; and (iii) the duplication of information obligations has not been fully addressed.²⁷⁴

This issue was discussed during the targeted consultation with business stakeholders and was reported as a problem by some of them. It was generally acknowledged that most of the information on controlling persons can be retrieved from the AML documents, but not in all cases. This explains why, when the DAC2/CRS system was first implemented, linking the two frameworks and identifying when AML information was not sufficient was a cumbersome task. This led to some duplicated efforts, and thus to unnecessary administrative burdens. However, a number of stakeholders also mentioned that they have now learned their lesson and are able to know when they must ask for more information than what is required by the AML obligations in order to identify the controlling persons of passive non-financial entities. Nevertheless, **a full alignment of the two definitions could further minimise the overlapping compliance effort and increase the synergies between the DAC framework and the AML legislation.**

8.3.4 OECD initiatives

As discussed in Section 2.3 above, the various policy measures consolidated in the DAC have their counterparts in the OECD framework, in which most EU Member States also participate. **It is therefore essential, and all tax authorities made this very clear, that the EU and OECD obligations on administrative cooperation are and remain closely aligned,** even though the different nature of the two sets of norms and the respective institutional frameworks needs to be taken into account.

Broadly speaking, **the degree of coherence between the two frameworks is considered as very good, with only a few specific issues arising,** as discussed below. The OECD documents, and particularly the OECD Commentary, even though not explicitly subsumed within the EU legal framework, are considered as relevant guidance for applying the DAC. This is possible because the DAC and the OECD framework not only provide for similar, when not identical, material obligations for the Member States, but also include the same legal definitions and standards (e.g. foreseeable relevance, taxes, fees). However, the existing differences,

²⁷¹ Cf. DAC5 Proposal.

²⁷² Cf. COM (2018)213.

²⁷³ Cf. AEFI, 6th meeting – 10 November 2016 and AEFI, 7th meeting – 12 June 2017. One financial institution commented that the most difficult aspect of the DAC2 framework was indeed the definition of 'controlling person'.

²⁷⁴ One business federation reports that the same information is requested of customers an average of about 7.5 times because of different pieces of EU legislation, including DAC2, the AML Directive, and other financial legislation (such as MIFID, Directive 2014/65/EU of the European Parliament and of the Council of 15 May 2014 on markets in financial instruments and amending Directive 2002/92/EC and Directive 2011/61/EU).

though limited, still matter, especially when various legal bases (e.g. DAC, the OECD Convention, double-taxation agreements) allow obtaining information in the area of direct taxes. Although the solutions provided under the various legal bases tend to converge, they may differ, e.g., in terms of the deadlines for communicating the information or the possibility of using the information received for other purposes, and this can sometimes hamper the working of the exchange.

DAC2 and CRS. Though differences remain between the DAC2 and CRS provisions, the stakeholders consider that the degree of alignment between their substantive obligations is high. However, ***some technical provisions on data exchange are not identical***, and this requires an additional effort by the tax authorities. In particular:

- 1) Under DAC2, there is zero-data reporting (i.e. when there is no data to be exchanged), which is not required under CRS;
- 2) While for DAC2 data validation and response are carried out at the file level, for CRS (and FATCA) they are carried out at the record level. This may require different procedures and a degree of manual adjustment of the databases to sort out possible conflicts.

DAC3 and BEPS5. BEPS Action 5, in short 'BEPS5', deals with harmful tax practices and provides the rules governing the exchange of ATR and APA; it was transposed into the EU framework via the DAC3 amendment. The obligations under both BEPS5 and DAC3 are very similar, although the different institutional setting implies that, under DAC3, the information on ATR and APA is available to all Member States once uploaded on the Central Directory, while, under BEPS5, the rulings need to be exchanged with the 'relevant jurisdictions', i.e. those that may be affected by the ATR/APA. This different setting implies some duplicated efforts, namely when the same ruling needs to be both uploaded in the Central Directory and exchanged with non-EU jurisdictions. Some issues emerged as to the types of ATR and APA which need to be exchanged, since the scope of the two obligations is somewhat different.²⁷⁵ In particular:

- DAC3 applies to any cross-border ATR and APA, except for those exclusively related to natural persons; BEPS5 applies to six categories²⁷⁶ of tax rulings, including those concerning exclusively natural persons.²⁷⁷
- Concerning cross-border ATRs/APAs issued, amended or renewed before 1 April 2016, DAC3 gives Member States the option for these ATRs/APAs not to be exchanged, provided that they involve a person or a group thereof with an annual turnover of less than € 40 million. Notably, entities conducting mainly financial or investment activities are not entitled to this exemption. BEPS5 includes no exemptions to the six categories listed therein.

The differences imply that some of the measures introduced in the EU framework for lowering the number of ATR and APA to be exchanged, i.e. focusing on those that are most relevant and thus limiting the burdens for the tax authorities, are not part of the OECD framework. As a consequence, the types and number of rulings that need to be exchanged remain different, causing uncertainty and confusion. When asked whether a clarification should be provided on which rulings fall under DAC3, the tax authorities reported that it is not necessary since all new ATR/APA with a cross-border dimension – within the limits laid down in Article 8a(3) and (4)²⁷⁸

²⁷⁵ Knobel A. (2018), *Reporting taxation: Analysing loopholes in the EU's automatic exchange of information and how to close them*, Report commissioned by the Greens/EFA Group in the European Parliament, available at <http://extranet.greens-efa-service.eu/public/media/file/1/5729>

²⁷⁶ Namely: (i) Taxpayer-specific rulings related to preferential regimes; (ii) Cross-border unilateral APAs and any other unilateral cross-border tax rulings (such as ATRs) covering transfer pricing or the application of transfer pricing principles; (iii) Cross-border rulings providing for a unilateral downward adjustment to the taxpayer's taxable profits that is not directly reflected in the taxpayer's financial/commercial accounts; (iv) Permanent establishment (PE) rulings, i.e. rulings concerning the existence or absence of, and/or the attribution of profits to, a permanent establishment by the country giving the ruling; (v) Related party conduit rulings; and (vi) Any other type of ruling that in the absence of spontaneous information exchange gives rise to BEPS concerns.

²⁷⁷ Within the EU, ATR/APA concerning exclusively natural persons can be exchanged via SEOI under the DAC, if they are deemed as relevant for other Member States.

²⁷⁸ Article 8a(3) provides that bilateral or multilateral APA with third countries shall be excluded from the scope of automatic exchange of information where the international tax agreement under which the APA was negotiated does not

– are deemed to be covered by DAC3 and thus to be uploaded in the Central Directory. Hence, there is no uncertainty on the scope of DAC3 in this respect.

Timing for EOIR. As already discussed in Section 3.2.1, under the DAC the receiving authority must communicate the information within six months from the date of the request, or two months in case it is already in possession of that information.²⁷⁹ Under the Global Forum peer review process, the standard is set at 90 days. Several tax authorities lament the fact of having to work under two different deadlines for the same type of exchange and would like to see the EU deadlines aligned with those of the OECD – since they apply to any exchange, both among EU Member States and with third countries.

8.4 Summing up

The assessment of the internal coherence of the DAC is positive, and this is remarkable, given that the Directive has been amended five times since its entry into force in 2013. Among the various definitions and standards which are included in the Directive, none of them is a recurrent cause of impediments for the exchange of information among tax authorities. In a very limited number of cases, e.g. for one or two Member States, or for one to five requests per year, the interpretation of terms such as ‘fees’, ‘foreseeable relevance’ or ‘purposes other than taxation’ can be uncertain. The common understanding of the Directive provisions and their smooth implementation is also facilitated by the common reliance on the OECD explanatory documents.

There are also no major issues concerning the external coherence of the DAC. This was further confirmed by the PC, in which a majority of the respondents consider that the DAC is in line with other laws and initiatives. With respect to the coherence with the administrative cooperation in the field of VAT, some minor drawbacks were identified, e.g. on the power of the requesting authorities during administrative enquiries, on the deadlines for EOIR, and on the cases in which information can be communicated to other Member States. Though the discrepancies are indeed minor, they can represent more significant problems when the same tool or request is activated both for VAT and other taxes. No negative interactions were identified for the Recovery Directive. As far as the AML legislation is concerned, DAC2 and DAC5 tried to exploit potential synergies, i.e. in relying upon information already collected by banks for AML purposes. However, the differences in the legal definitions under the two frameworks could have limited these synergies and caused some overlapping compliance effort during the early implementation of DAC2/CRS. Finally, although the OECD framework and the EU legislation are well aligned, tax authorities indicated some burdensome discrepancies between the DAC3 and BEPS5 framework, and, at the technical level, between the rules for exchanging messages under DAC2 and CRS. Much in the same vein, the misalignment between the EU and OECD deadlines for EOIR is, according to most tax authorities, somehow problematic.

All in all, **the DAC presents no major problems as far as its coherence is concerned.** The findings shared by the Member States’ tax authorities via the QFD and the targeted consultation largely point out minor drawbacks. At the same time, the DAC is part of a rather consistent nexus of EU legislation and international obligations, which has been repeatedly assessed over the recent years²⁸⁰ without finding out problematic areas.

permit its disclosure to third parties. Article 8a(4) exempts ATR of a cross-border dimension from the automatic exchange if they concern and involve the tax affairs of one or more natural person.

²⁷⁹ Article 7(1).

²⁸⁰ In addition to the EU evaluations of the Regulation on administrative cooperation in the field of VAT and of the Recovery Directive, the OECD framework is regularly subject to peer analysis. For instance, cf. OECD (2018), *Harmful Tax Practices – 2017 Peer Review Reports on the Exchange of Information on Tax Rulings: Inclusive Framework on BEPS: Action 5*, OECD/G20 Base Erosion and Profit Shifting Project, OECD Publishing, Paris.

9 EU ADDED VALUE

9.1 Introduction

This Section presents the assessment of the EU Added Value of the Directive, that is ***the evaluation of whether the outcomes and the impacts achieved would have occurred had the intervention not taken place at the EU level***, but rather by means of international or bilateral policies. In other words, the assessment aims at measuring what share of the benefits of ACDT was generated by the fact that this policy was enacted and funded at the EU level. The analysis covers the provisions included in the original version of the Directive (DAC1) and its first two amendments (DAC2 and DAC3), due to the very recent implementation of DAC4 and DAC5.

The most obvious added value of the DAC mechanisms and tools compared to the international agreements is that they are ***compulsory*** for Member States, which, conversely, remain free to adhere or not to the OECD standards. However, this argument fails to capture the true added value of the Directive, since, as far as the Member States could refrain from adopting the OECD standards, they could have vetoed the adoption of the DAC provisions as well. Hence, the counterfactual against which the EU Added Value is assessed consists in the Member States having adopted the OECD standards.

The assessment focuses on two aspects:

- 1) in Section 9.2, the analysis of the ***added efficiency***, that is extent to which the working of the Directive mechanisms and tools is superior to their alternatives introduced via international standards or bilateral treaties, as well as the ***additionality of the EU funding programmes***, based on the findings discussed in Section 7 – Efficiency; and
- 2) in Section 9.3, the identification of the ***added benefits***, i.e. the amount of additional tax revenues depending directly on the EU-level action, based on the findings discussed in the Sections 6 – Effectiveness.

Section 9.4 briefly summarises the main findings.

9.2 The added efficiency of ACDT mechanisms and tools

Most of the mechanisms and tools enshrined in the Directive have their counterparts in other international initiatives, in particular the OECD standards and guidelines and bilateral tax treaties. In particular:

- DAC1 AEOI has no counterpart in the OECD regime, although it is mentioned in the Model Tax Convention and is rarely included in bilateral treaties;²⁸¹
- The other DAC1 provisions have counterparts in the OECD Conventions²⁸², which can be supplemented and specified by bilateral treaties;
- DAC2 AEOI corresponds to the OECD CRS standards;
- DAC3 AEOI implements the OECD BEPS5 action.

A comparative analysis of the efficiency of the EU intervention and other international standards to identify the EU Added Value can thus be properly carried out for non-AEOI DAC1 provisions²⁸³, DAC2, and DAC3.

Non-AEOI DAC1 Provisions. For EOIR, SEOI, and OFACDT, the tax authorities unanimously acknowledge the additionality of the EU framework in terms of efficiency, i.e. ease of use and cost savings. In particular, ***the standardisation of the EOIR is a significant improvement*** compared to the mechanism available under the other multilateral and bilateral initiatives. The development of the e-forms constitutes a key advantage, as this has greatly facilitated the work

²⁸¹ This was, for instance, the case between Finland and Sweden, which already had in place a method for exchanging information on the incomes of non-residents prior to the DAC.

²⁸² Convention on Mutual Administrative Assistance in Tax Matters; articles of the Model Tax Convention, in particular Article 26, and the associated Commentary, cf. above note 17.

²⁸³ One tax authority that had a bilateral AEOI system for exchanging data on certain categories of incomes emphasised that the Directive made the exchange 'more efficient and mandatory' compared to the pre-existing voluntary systems.

of the tax authorities and raised awareness among tax officials about this instrument. Also, **the CCN allows the safe and secure exchange of data, and a similar infrastructure is not available for communicating with other jurisdictions**. As reported by the authorities, “the standardised forms and the CCN greatly helped in our everyday job”. Most importantly, the resulting systems and forms proved superior to the OECD standards, and “we would not have been able to develop the same system without the EU coordination”. All in all, the standardisation of forms and the setup of a centralised IT infrastructure resulted in regulatory cost savings for tax authorities in using non-AEOI tools, the quantification of which was however not possible.²⁸⁴

As for PAOE and SC, their additionality is due to the fact that, under the DAC, the rules and requirements for these tools are defined in detail and through binding requirements. This is not the case for the simultaneous examinations encompassed in the Model Tax Convention, the details of which are left to the non-binding Commentaries, thus limiting their ease-of-use²⁸⁵

DAC2. The DAC2 provisions are very similar to the CRS standards; hence, the substantive added value of the EU intervention in this case is negligible. Nevertheless, at a more technical level, **some tax authorities praise the DAC2 framework because the data on financial assets can be handled more easily, and thus the information exchanged has a better quality**. In particular, the DAC2 provisions are conducive to a more automated handling and exchange of the data, and the EU technical and functional specifications have proved to be very helpful in the deployment of this type of AEOI. Also, the positive coordination role played by the Commission in implementing and operationalising DAC2 was welcomed.

DAC3. Here, **the added value of the DAC come from the form and modality of the exchanges**. Indeed, DAC3 requires the automatic exchange of information on ATR/APA by uploading the summary in a centralised directory. Conversely, the BEPS5 action provides for the ‘compulsory spontaneous’ exchange by directly communicating the ATR/APA to the concerned jurisdictions. The EU approach is considered more efficient from an operational perspective. Even though the scope of the compulsory spontaneous exchange under BEPS5 is wider, since it also covers the rulings addressed exclusively to natural persons, the relevance of ATR for natural persons hardly justifies the additional costs of the associated exchanges. At a more technical level, according to one tax authority, DAC3 is also superior to BEPS5 because the information is exchanged in a single automatically-processable XML format, while the OECD provides for several more complex formats and the information is not (always) automatically-processable. A minority of the tax authorities interviewed, however, were somewhat unhappy with the functioning of the Central Directory, especially since it is not searchable and not very usable for analytical purposes.

Additionality of EU funds. Another source of EU added value consists in the funding made available via the Fiscalis programme to support the ACDT mechanisms and tools.

Two interventions are capable of generating added value for the national tax authorities:

- the support to the central IT infrastructure and the development of joint software modules and schemas; and
- the support to OFACDT activities.

For common IT systems and joint software modules and schemas, two economic drivers generate additional value because of the funding being disbursed at central level, rather than via national programmes. First and foremost, **economies of scale are at play**, as the investment in a common infrastructure or a joint software is more efficient than 28 separate investment programmes.²⁸⁶ Secondly, the EU support generated **transaction cost savings**,

²⁸⁴ Cf. Section 7.2.2 above.

²⁸⁵ Cf. note 16 above and § 9.1 of the Commentary to Article 26.

²⁸⁶ Fiscalis 2013 evaluation, at p. 112: “without an EU-wide programme such as Fiscalis 2013, to develop these systems commonly, ensuring the necessary interoperability between Member State applications would [have been] very challenging in terms of technical sophistication and associated financial cost”. Cf. also Fiscalis 2020 mid-term evaluation, at p.109 – 110.

because it avoided duplicated efforts by Member States authorities and helped in coordinating national approaches. The transaction cost savings arose especially from the development of software modules and schemas, that national authorities can subsequently adopt for handling and exchanging the information records.²⁸⁷

For OFADCT activities, it clearly emerges from the Fiscalis evaluations and the targeted consultation, that **the same level of PAOEs and SCs would have not taken place, were the EU support not provided**. A number of Member States have indeed acknowledged that the Fiscalis funding allowed them to participate in more SC/PAOE activities than would be allowed by the national budgets.²⁸⁸ Furthermore, for these tools, Fiscalis also generated transaction cost savings, by supporting the setup of coordination fora and operational guidelines.

Overall assessment. The findings described above suggest that **the Directive tools and mechanisms are generally superior to the alternative frameworks**, because the EU uniform procedures and centralised IT systems reduced the effort required by tax authorities for obtaining and providing information. The assessment is subject to nuances, as there are clear additional efficiency gains for non-AEOI DAC1, in particular for EOIR, and for DAC3. On a different note, for DAC2, similarities with the alternatives prevail, so that the advantages are limited to more technical aspects.

At a more general level, **the additionality of DAC as a whole is also acknowledged by the tax authorities**. In particular, the Directive clearly specifies which tools can be used, when, and how, while the bilateral tax treaties only provide for a general description of the available instruments. Furthermore, as a result of the Directive, the national practices were harmonised, creating **a common approach to administrative cooperation**, which facilitated the exchange of information in more than under other frameworks. Even though – as put by one tax authority – the DAC is more “demanding” than the requirements under the OECD agreements, **it also generated trust and a “stronger and more effective cooperation”**. A better cooperation also resulted from the EU budget support, disbursed under the Fiscalis programme, which generated economies of scale and transaction cost savings, and allowed additional SCs and PAOEs to be carried out. Finally, process-wise, the adoption of the Directive has accelerated the implementation of the commitments adopted by the Member States at the OECD level.

9.3 The added benefits of the Directive

In this Section, the extent to which the Directive increased the effectiveness of tax control activities and tax compliance, ultimately resulting in additional tax revenues is assessed. On the contrary, the additionality of the Directive with respect to Single Market aspects (e.g. the appreciation the role of the Directive to limit harmful tax competition and to ensure a level-playing field for economic operators) could not be carried out, given that the findings concerning the achievement of these outcomes and impacts remain non-conclusive at this stage.

The assessment of the extent to which benefits were generated because the ACDT rules were enacted at the EU level takes place in two steps. First, it requires an analysis of the existing incentive mechanisms, to ascertain whether Member States would have spontaneously moved towards cooperation without the need for any type of regulatory intervention. Once this is confirmed, then the added value of the Directive compared to other international or bilateral initiatives can be assessed.

The provision of information on incomes generated or assets held by non-residents in a Member State’s territory creates costs for the country sending the information (e.g. carrying out the administrative enquiries, handling and exchanging the information), and benefits for the receiving country, which can potentially enjoy additional tax revenues and increased tax compliance. In a close-knit club with repeated interactions, a mutual incentive for cooperation could emerge spontaneously, considering the bilateral effects of these exchanges. In principle,

²⁸⁷ Fiscalis 2013 evaluation.

this could be the case for EU Member States, since all EU Member States are both senders and receivers of information, meaning that they both bear the costs of the exchanges and enjoy additional revenues. If cooperation emerged spontaneously, the main rationale for introducing an instrument such as the Directive would be to obtain efficiency gains, similar to those described in Section 9.2 above.

However, the analysis of the European context clearly shows that **EU Member States have diverse national conditions in terms of fiscal policies and economic structures**, which prevent the situation described above from materialising. For instance, a Member State having few citizens with incomes/assets abroad, but a large number of non-resident taxpayers working and holding assets in its territory, is likely to not have sufficient incentives to join the mechanism, and this would endanger the spontaneous cooperation. Much in the same vein, the acknowledged existence of harmful tax competition within the EU²⁸⁹ suggests that a similar misalignment of incentives emerges with regard to the provisions concerning corporate taxation (i.e. DAC3 and DAC4). Hence, **a regulatory intervention is likely to generate added value**, i.e. to contribute to the goal of having the Member States exchange fiscal information which is beneficial to their peers. The contribution of DAC towards the exchange of fiscal information is indeed confirmed by the volume of information communicated under the AEOI, which has grown overtime with a twofold increase between 2015 and 2016 (the data available for the first half of 2017 suggest that the growth trend continued) and by the fact that MS very seldom refuse to provide data under the DAC mechanisms.

Once the need for a regulatory intervention is established, then the specific added value of the Directive and its provisions compared to other initiatives can be identified. **The benefits generated by DAC1 AEOI can be considered as EU Added Value, since this provision has (almost) no counterpart in other frameworks.**²⁹⁰ This remains true even though the overall amounts exchanged are limited compared to the total income generated by tax residents. The EU Added Value of DAC1 AEOI corresponds to the benefits reported by six Member States, amounting to around € 92 million of incremental tax assessed.²⁹¹ This will not be the case for the additional tax assessed thanks to DAC2 and DAC3, since the EU Added Value will have to be discounted by the share of the exchanges which would have happened under the respective OECD provisions.

For the non-AEOI provisions, the added value of the Directive can be primarily captured by the efficiency gains described above. In principle, however, a reduction in the costs and time needed to carry out EOIRs, SCs, or PAOEs would also imply that more exchanges can take place within a given period, thus resulting in additional controls and enquiries. **The EU Added Value of non-AEOI provisions could thus be significant, depending on whether the efficiency gains translate into an accelerated deployment of the tools.** As shown in Section 4 above, this is the case for EOIR, as the average number of exchanges increased by 85% between the five years preceding and following the entry into force of DAC. As for PAOE, their use also skyrocketed after the entry into force of DAC, with the five-year average going from 11 PAOEs per year to 44. However, most of the PAOEs concern bordering countries, and hence could have been possible even under bilateral forms of cooperation. Finally, the number of SCs remained constant before and after the implementation of DAC.

²⁸⁹ Cf. Section 5.2 above.

²⁹⁰ The analysis should be refined by taking into account the pre-existing bilateral mechanisms for exchanging information, which would however only minimally reduce the EU Added Value.

²⁹¹ As discussed in Section 6.4 above, several caveats need to be considered: (i) the available data originate from only six MS, and cover a limited number of years; (ii) the provision is relatively 'new', as this Study only covers the first 2.5 years of exchanges, so that it may fail to capture the full benefits; (iii) the additional tax assessed needs to be discounted by the actual rate of collection of tax claims; and (iv) the extent to which the incomes and assets identified have already been taxed in the non-residence Member State, and thus benefit from the common prohibition of double taxation, is unclear.

9.4 Summing up

The findings strongly suggest that the EU intervention in the area of ACDT has generated an added value compared to what could be gained from the existing international or bilateral policies. **To start with, the Directive has resulted in efficiency gains** concerning DAC1, DAC2, and DAC3, which are especially pronounced for non-AEOI DAC1 provisions. With respect to the latter, the e-forms and CCN represent a clear advantage of the EU framework compared to the other international activities, as these common modules, schemas, and infrastructure would not have been introduced under international or bilateral initiatives had the EU action not been undertaken.

Linked to the above, **the added value of the EU intervention is also linked to the EU budget support provided via the Fiscalis programmes**. Firstly, the value-for-money of the expenditures on IT infrastructure and software was enhanced by the economies of scale of acting at the central level. Secondly, these programmes supported the overall coordination of the tools and mechanisms of the Directive, thus saving transaction costs. Thirdly, these programmes also enhanced the capacity of the Member States to participate in SCs and PAOEs, increasing the instances in which these tools were deployed.

Finally, the EU action also resulted in additional benefits, the EU Added Value of which could be in part quantified. Indeed, the benefits currently reported for AEOI, all of which are linked to DAC1, derive from an EU intervention which does not have a counterpart among the international initiatives and would have not been undertaken by Member States spontaneously. For six Member States, **this component of the EU Added Value of the Directive amounted to € 92 million of additional tax assessed for 2016 and 2017**. Furthermore, additional benefits could arise as the efficiency gains allow more EOIRs to be carried out with the same resources, and the increase in the uptake of this mechanism point out that this could be the case.

10 POSSIBLE WAYS FORWARD

10.1 Introduction

This Section presents an assessment of the possibly ways forward, i.e. the **revisions** that could be introduced in the Directive, based on the feedback provided by tax authorities and other stakeholders and the Consultant's own analysis considering the evidence resulting from the Study. While a number of clarifications, which would not alter the content of the DAC, have already been discussed in Section 8, here substantive changes to the DAC – e.g. to the categories of income covered by the AEOI, the handling of messages, and the existing tools under the DAC – are assessed.

10.2 Revisions

During the targeted consultation, the tax authorities were invited to comment on a list of possible revisions to the Directive which were pre-defined in agreement with the Client. The options presented included: (i) the mandatory inclusion of the TIN of the residence country in the DAC1 AEOI records; (ii) the removal of the acknowledgement of receipt for EOIR and SEOI; (iii) the combination of Articles 6 and 11 on "Administrative enquiries" and "Presence in administrative offices and participation in administrative enquiries"; (iv) the explicit introduction of "joint audits"; (v) the removal of the availability clause in DAC1 AEOI (hence making the exchange of data on certain incomes and assets mandatory); and (vi) the inclusion of new income categories under DAC1 AEOI. The tax authorities and the other stakeholders could also indicate any additional revision that they considered to be necessary.

Mandatory inclusion of the TIN of the residence country in the DAC1 AEOI records. The TIN of the residence country is one of the main identifiers upon which the tax authorities rely in matching DAC1 AEOI data and the national taxpayer databases. Currently, the TIN of the residence country is seldom included in the records exchanged, as it is available for only 2% of the taxpayer's positions; for most of sending Member States, this identifier is not available at all.²⁹² The tax authorities consider the TIN as the most effective identifier ("*it is the easiest and most certain way to match data and taxpayers*") and would thus welcome its more widespread inclusion in DAC1 AEOI records. **However, most of the tax authorities remain wary of making it mandatory**, as various elements suggest that the costs to implement such a requirement would hardly be justified by the achievable outcomes.

First of all, there are, other effective identifiers, in particular the taxpayer's name, surname, and date of birth. These identifiers are the ones currently most commonly used to run the automatic matching algorithms, which already provide good, and sometimes very good, matching rates in a number of Member States.²⁹³ Secondly, the accuracy of the foreign TIN provided by a non-resident taxpayer would be very difficult to verify.²⁹⁴ Indeed, under DAC2, where the TIN is mandatory, financial institutions reportedly experience significant difficulties in collecting and verify this piece of information. Conversely, the correctness of other identifiers – such as name, surname, and date of birth – can be easily verified from any identity document. Finally, from a procedural perspective, it is noted that, in most cases, this would require a change in the national fiscal legislation, as, currently, non-resident taxpayers are not required to declare their home country TIN, e.g. when registering in another Member State or entering into an employment contract. For all these reasons, and especially considering the already good and growing matching rates, **introducing an obligation to include the TIN of the residence country in the DAC1 records seems unjustified.**

²⁹² Only a handful of Member States (Ireland, Lithuania, Estonia, Latvia, and Finland) had the TIN available for more than one-third of the non-resident taxpayer positions covered by the exchanges. Cf. Section 6.2.1 above.

²⁹³ Cf. Section 6.3.2 above.

²⁹⁴ In particular, there is no EU database to verify the existence and accuracy of TINs, similar to what can be done for VAT numbers via the VAT Information Exchange System. The Commission developed an on-line tool, "TIN on the web", for checking the TIN structure and syntax. However, it cannot verify whether a TIN actually exists or has been allocated to an individual. Cf. https://ec.europa.eu/taxaHowtion_customs/tin/?locale=en (last accessed on March, 2019).

Acknowledgment of receipt. As illustrated in Section 2.5.2, Articles 7(3) and 10(2) of the Directive require the Member State to which an EOIR or SEOI is addressed to acknowledge its receipt within seven working days. Half of the authorities consulted are in favour of removing this obligation, as it represents an additional duty which, in their view, is not justified, possibly because the exchanges usually take place via the secured CCN network, in which the delivery of messages could be tracked. It was also pointed out that the same obligations do not exist for VAT cooperation, the functioning of the EOIR and SEOI mechanisms is not negatively affected. However, four out of ten authorities are opposed to this revision, since the acknowledgment of receipt is important in determining whether the transmission of the EOIR or SEOI has occurred properly. Furthermore, the date of the acknowledgement is used as a reference to establish the deadlines for the response to the EOIR. Some authorities also suggest that this aspect could be addressed within the implementation of the new eFCA forms by introducing an automatic or quasi-automatic system for acknowledging receipt (e.g. like the mechanisms currently in place for e-mails and certified e-mail services). ***If the acknowledgement could be handled via the eFCA forms, a legislative revision aimed at removing the acknowledgment of receipt would not be necessary.***

Combining Article 6 and Article 11 – Administrative enquiries. Article 6 of the Directive provides that, following an EOIR, the requested authority shall carry out the administrative enquiries necessary to retrieve the information. In the EOIR, the requesting authority can specify that it deems an enquiry to be necessary for obtaining the information, and there is no explicit provision in the DAC for that enquiry to be carried out jointly.²⁹⁵ A combination of Article 6 with Article 11 – the latter regulating joint administrative enquiries – could clarify that a joint administrative enquiry can be requested together with an EOIR. ***Only two tax authorities demand this change, while the remaining ones hold a neutral or negative view,*** as they do not see how it would contribute to a better functioning of the ACDT framework.

As none of the tax authorities consulted reported this aspect as problematic, ***there is hardly any need for proceeding with the combination of Articles 6 and 11 on administrative enquiries at the moment.*** Indeed, on the one side, there is no hint that such a combination would significantly affect how the tax authorities use the joint administrative enquiries; on the other side, both EOIR and administrative enquiries can already be demanded jointly, based on the current wording of the DAC. In the context of a future broader review of the Directive, an alignment of Article 6 with the current provisions of the VAT regulation – and in particular Article 7(4a) which regulates administrative enquiries in the context of EOIR – could be warranted, based on the general principle that, for PAOEs and SCs, the frameworks for cooperation in the fields of direct and indirect taxation should be as harmonised as possible.

Joint audits. According to the OECD, a joint audit would consist of four elements: (i) it is carried out by a single audit team, with officials from two or more countries; (ii) the countries have a common or complementary interest in the matter at stake; (iii) the taxpayer jointly shares information with the single audit team; and (iv) the officials in the single audit team have a 'competent authority/official' status.²⁹⁶ The current ACDT framework provides for the possibility to engage in PAOEs, with or without active presence, or SCs. ***Both tools fall short of joint audits,*** because the Directive does not explicitly grant the same auditing power to the requesting authority's officials and, especially in the case of SCs, the information is usually exchanged after the event rather than collected jointly.²⁹⁷ At the same time, it is fair to say that a PAOE with active presence can indeed come close *in essence* to the working of a joint audit, as also acknowledged by the Commission.²⁹⁸ The inclusion of joint audits was also discussed in the

²⁹⁵ The Regulation on administrative cooperation in the fields of VAT covers this aspect in Article 7(4a); cf. also Article 28(2a) with reference to administrative enquiries carried out jointly in the framework of PAOE.

²⁹⁶ See OECD, Sixth meeting of the OECD Forum on Tax Administration, Joint Audit Report – Istanbul, 15-16 September 2010, available at <http://www.oecd.org/tax/administration/45988932.pdf>.

²⁹⁷ WG ACDT – 37th meeting – 21-22 April 2016, Summary Report; Document ACDT n° 105, Fiscalis Project Group 049, Joint Audits, FPG/049, 13.04.2016 – Final Report.

²⁹⁸ European Commission, DG TAXUD, EU Joint Transfer Pricing Forum, A coordinated approach to transfer pricing controls within the EU, DOC: JTPF/013/2018/EN, October 2018.

revision of the framework for the VAT administrative cooperation.²⁹⁹ The term 'joint audits' was eventually expunged from the final version of that act.

In the context of ACDT, four of the tax authorities consulted have a positive opinion of adding joint audits into DAC, praising its potential effectiveness in fighting large-scale cross-border tax frauds. One of the authorities in favour of this approach, however, considers that while their inclusion under the DAC may be beneficial in theory, it is not desirable in practice, since this would alter the level playing field with the VAT Regulation, which is a necessary condition ('*since you may use the same tool for both VAT and other taxes, you need the tools to be aligned as much as possible*'). **Although no tax authority is against including joint audits, six of them remained neutral** or did not have an opinion on the issue. It is also pointed out that, in some cases, joint audits are already carried out by various pairs of Member States under the umbrella of bilateral agreements.

The elements collected in the context of this Evaluation suggests **a cautious approach towards joint audits**. Indeed, the tax authorities have a positive opinion of the current effectiveness of the PAOEs, even though limitations to the powers of the hosted tax officials remain in a large number of Member States.³⁰⁰ However, since all these forms of joint enquiries require the active cooperation of both the requesting and requested authorities to be successful, the introduction of joint audits would seem warranted only based on a widespread and explicit demand from national authorities, which is currently lacking. Otherwise, the new tool would remain largely unused if Member States are not willing for and prepared to it.

Removal of the availability clause in DAC1 AEOI. Article 8(1) of the Directive requires Member States to communicate information on five types of incomes and assets that is available and retrievable via their national procedures. It implies that, if there is no information for one of the five income categories (e.g. because it is not taxed, or not taxed separately) or if the information is affected by any limitation (as is often the case with the foreign TIN), the Member State has no duty to collect that additional information for AEOI purposes. **This clause significantly reduces the effort that the AEOI may cause for national administrations**, as collecting additional data is more cumbersome than sharing existing ones. The additional data collection could also require substantive changes to the tax systems, and in particular the introduction of new information obligations, and thus burdens, for taxpayers or intermediaries. Nevertheless, **the availability clause also limits, to some extent, the amount and the quality of information exchanged under the DAC1 AEOI.**³⁰¹

The tax authorities are generally opposed to such a revision. Even the few that consider it as positive in principle, point out that it would be very cumbersome to implement. More importantly, the benefits of making the DAC1 income and asset categories mandatory would be limited, and possibly lower than the costs. Indeed, in terms of both number of taxpayers and income value, DAC1 exchanges are dominated by income from employment and pensions, which are already exchanged by 27 and 26 Member States respectively. At a minimum, a cost-benefit analysis should be run to compare the additional data collection costs the likely additional tax base before considering such a revision.

Adding new income categories under DAC1 AEOI. The last possible revision concerns the addition of other categories of income to the five currently listed in Article 8 of DAC. These new categories could include, for instance, income from independent work or royalties. **The vast majority of the authorities consulted is in favour of such a revision**, with several caveats: (i) that a sufficient lead time is provided; (ii) that the new categories remain subject to the availability clause; and (iii) that the likely additional costs and benefits are compared before

²⁹⁹ Cf. Articles 1(7) and (8) of the document 'Towards a single EU VAT area - Time to act', Amended proposal for a Council Regulation amending Regulation (EU) No 904/2010 as regards measures to strengthen administrative cooperation in the field of value added tax, 30.11.2017 (hereinafter the 'Proposal for VAT Regulation').

³⁰⁰ Cf. Section 4.4 above.

³⁰¹ Currently, each Member State sends data regarding an average of about 3.7 income categories out of 5; cf. Section 4.2.1 above.

identifying which additional categories shall be added. It is also pointed out that the new categories will likely be residual in terms of taxpayers and tax base when compared to incomes from employment and pensions. Furthermore, there is a limit to the categories that can be added, taking into account that in several Member States a number of taxes are collected at the local level and the related information is not always integrated in a central database. One tax authority is opposed to such a revision, suggesting that 'time to breathe' is rather needed, following the repeated amendments to the Directive and the fact that – as confirmed by this Study – many tax authorities are still learning about how to benefit from the information currently exchanged via AEOI. **All in all, adding new non-mandatory categories to DAC1 AEOI provides potential benefits at limited costs; nevertheless, it may be appropriate to wait for introducing such a revision, allowing national authorities to keep focusing on how to use the existing data.**

Other revisions. Other possible revisions to the Directive or improvements to the ACDT framework were mentioned by the tax authorities. None of them concerns issues so pressing as to require the re-opening of the Directive in the short-term. These possible revisions include:

- a mechanism to ensure and improve the quality of the data exchanged via AEOI, for instance the possibility to verify the inclusion of a sufficient number of identifiers;
- a mechanism to ensure that the deadlines for AEOI are respected, as well as of a cut-off date for the relevance of information;³⁰²
- elimination of the need to prove foreseeable relevance when an EOIR request concerns additional information on an ATR/APA uploaded to the Central Directory;
- new fields in DAC2 records, such as the type of account (e.g. insurance product, bank account) or the total number of owners;³⁰³
- extension of the Eurofisc network to direct taxation, given its effectiveness in supporting the fight against large-scale cross-border VAT frauds;
- in light of the recently adopted General Data Protection Regulation³⁰⁴, a clarification about the conditions under which data can be exchanged with third countries, as regulated by Article 24;
- introducing a single homogenous deadline for EOIRs, set at 90 days, in both the EU and OECD framework;³⁰⁵
- removing the need to ask for the sending authority's explicit permission when ACDT information is shared with another Member State, in line with the VAT Regulation;³⁰⁶
- more guidance on the format and content of the ATR/APA summaries to be uploaded under DAC3.³⁰⁷

Finally, one business federation suggested considering measures to mitigate the costs of DAC2 for financial operators, and in particular the introduction of one or more *de minimis* thresholds, i.e. excluding accounts and policies below a certain threshold or low-risk products or entities from the exchange.

³⁰² Sending or correcting data older than 10 years could be barred, as it represents an unnecessary burden for the both the sending and the receiving country, since no tax can be reclaimed on that basis due to the statute of limitations.

³⁰³ The total number of owners is considered important for risk analysis ("it is not the same if one million euro account is held by one or ten people; and if the other people are not resident of the same country, the tax authorities cannot access this information").

³⁰⁴ Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC (General Data Protection Regulation).

³⁰⁵ Cf. Section 8.3.1 above.

³⁰⁶ *Ibid.*

³⁰⁷ Cf. Section 6.2.1 above.

10.3 Summing up

Among tax authorities, **there is a limited appetite for further changes to the Directive in the short term**, as none of the revisions proposed gained widespread support. The only revision which received the support of most of the tax authorities would be the non-mandatory inclusion of additional income categories to DAC1 AEOI. This is possibly an unintended effect of the repeated amendments that took place during the life of the DAC (*“the Directive has changed so many times in the past six years that the attention was always focused on new provisions and adjustments, while there has been little time to make the most of the existing provisions”*). Also, as it emerged during the Study, several of the provisions of the Directive are still relatively under deployed (e.g. PAOE) or their potential under exploited (e.g. with respect to the use of AEOI data in some countries). This explains the focus of the authorities on learning and exploiting the mechanisms that are currently at their disposal, rather than in modifying them or adding additional ones.

The preference for not reopening the Directive is also evidenced when discussing possible clarifications discussed:³⁰⁸ even when a clarification is considered useful, non-binding guidelines are considered the most appropriate policy instrument. From the targeted consultation, it also emerged that any new or modified tool or procedure would need to be kept in line with the VAT framework for administrative cooperation and the OECD standards, and that major revisions to the scope of DAC would need to be subject to cost-benefit considerations of their additional costs and the expected increase in tax revenues.

All in all, **the Evaluation did not point out to significant challenges that need to be tackled by substantial legislative modifications in the short-term**. On the one side, many of the recent amendments have expanded the scope of the DAC to cover also emerging needs and priorities (e.g. DAC3 and DAC4). On the other side, most of the issues discussed in this Report concern the implementation of the Directive and the use that national authorities make of the ACDT tools and data exchanged, rather than the DAC provisions themselves. While substantial improvements could be considered in the medium-to-long term, such as the inclusion of joint audits or additional income categories for AEOI, **it seems more appropriate to wait before introducing any new legislative revision**. A waiting period would also allow taking stock of a possible future evaluation of the provisions which have been only recently implemented – DAC4 and DAC5 – and of the full assessment of the benefits generated by DAC2 and DAC3, since only the first year of exchanges has been covered by the Study.

³⁰⁸ Cf. Section 8 above.

11 CONCLUSIONS

This Section summarises the main findings of this Study, first by addressing the transposition, implementation, and uptake of the Directive provisions, then its performance over the five classical evaluation criteria, and, finally, summarising tax authorities' views as regards possible revisions of the Directive.

Transposition and preparation for implementation

The transposition of the Directive was in part late, but substantively unproblematic, while the intensity of preparatory activities shows major variations across the various provisions.

The Directive was generally smoothly transposed, and the few issues encountered concerned the timing of the transposition rather than the alignment of the national frameworks with the Directive provisions. On average, some 10 Member States were late in transposing the Directive and each of its amendments, resulting in 57 infringement procedures. However, 54 of these procedures have been closed, mostly at the very early stages, and only three remain pending; in no cases were Member States brought before the Court of Justice of the EU.

For all the Directive provisions, the implementation started about as planned and required a number of preparatory activities at EU and MS level, in particular for AEOI. The implementation focused mainly on IT-related aspects, namely the development of the infrastructure and the formats for the exchange of data. The development has been managed by DG TAXUD in close collaboration with the Member States and involved planning activities, the setting-up of the technical and functional specifications, and the testing and rolling the AEOI system. Only limited delays in the start of the various AEOI mechanisms were experienced. In this respect, the timely start of the DAC2 exchanges, despite the occurrence of last-minute technical issues, appears particularly positive.

Uptake

The Directive triggered the exchange of a substantial amount of information, covering significant amounts of taxpayers, incomes and assets, with a growing trend particularly for AEOI.

In 2016, the exchanges under DAC1 AEOI concerned around 7.5 million taxpayer positions and some € 50 billion of incomes, mostly concentrated in incomes from employment and pensions. Even though the exchange of information under DAC2 is in its early stage, in the first six months of operation information around 8.3 million accounts and € 2,865 billion of value (in terms of account balances) were communicated by the Member States. DAC3, which also was only recently implemented, led Member States to upload some 18,000 tax ruling in the Central Directory between July and December 2017.

With regards to tools and mechanisms other than AEOI, between 2013 and 2017, an average of 9,000 EOIR requests was sent per year. EOIR is used by all EU Member States, the largest senders of requests being Poland, France, and Germany. SEOI was also extensively used and the annual volumes varied from 10,000 to 80,000 messages per year between 2013 and 2017; however, most of these exchanges originated from a single country (the Netherlands). With respect to the other forms of administrative activities, their utilisation is uneven across the Member States. Over the period covered by the analysis, 229 PAOEs and 202 SCs were carried out, involving tax officials from 15 and 22 Member States, respectively.

For the mechanisms for which a diachronic comparison is possible, the uptake is on the rise, as expected. This is definitely the case for DAC1, with a near doubling of volumes between 2015 and 2016, and an expected further increase in 2017 (based on January-June data). In the case of DAC2, no comparison over time is possible, but the amounts reported have seemingly grown,

when compared with the figures reported under the Savings Directive. The number of EOIRs remained roughly stable between 2013 and 2017, but it has significantly increased after the adoption of the Directive in 2013 and is now about 85% higher than the pre-DAC level. While the involvement of Member States in SCs has been increasing from 2014 onwards, both in terms of the number of initiatives and of Member States participating, the involvement in PAOEs and SEOI follows an oscillating trend, with no clear pattern over time.

Relevance

The Directive was relevant at the time it was adopted, and it still is today, as it tackles substantial problems by fighting tax evasion, as well as fostering tax compliance by cross-border operators, increasing transparency of fiscal treatments, and contributing to the fairness of the tax system and to the proper functioning of the Single Market. Furthermore, it responds to the needs of Member State authorities and is largely in line with the EU overarching fiscal policies. Across all these dimensions, the Directive's relevance scores well, with the marginal exception of the magnitude of some of the problems that it intends to tackle, and of the partially changing EU policy priorities over the last decade.

More in details, the magnitude of the problems addressed appears to be quite large for DAC3 and DAC4, which focus on corporate tax avoidance. Indeed, the estimates of the revenues lost by the Member States because of this phenomenon reach up to 1.7% of the EU GDP. The stakes are also significant with respect to the amount of assets held abroad that were reported under DAC2. These assets represent nearly 5% of the financial assets held by EU households and non-financial corporations. In some Member States, especially small- and mid-sized countries, the share can exceed 20% of these financial assets. On a different note, the tax base captured by DAC1 AEOI appears more marginal, as it represents a mere 0.3% of the EU GNI, without major differences across countries. The geographical distribution of EI, PEN and IP flows is consistent with migration and investment patterns, suggesting that DAC1 AEOI is a faithful representation of the underlying economic reality.

The Directive was well aligned with the needs and priorities of the European Union at its adoption. DAC measures have been repeatedly mentioned as one of the most important EU tools for fighting against tax evasion and tax avoidance, foster tax compliance and a fair taxation of all companies and citizens, and these have been steadily among the top priorities for the Commission and EU citizens alike. Also, through its latest amendments, the Directive remained relevant to EU priorities and needs until today. In the last communications from the EU, an increasing emphasis has been placed on corporate tax avoidance, on fighting aggressive tax planning, and increasing tax transparency. The inclusion of DAC3 and DAC4 provisions appears fully aligned to this evolution.

Finally, the appreciation of the fitness-for-purpose of the Directive and its mechanisms and tools is also positive. The Directive scores very well in terms of its appropriateness to tax authorities' needs, both overall and considering specific mechanisms. The tax authorities commented that a single 'most useful' tool is difficult to identify; rather, they tend to underline their positive assessment of the tools on which they are more experienced. Furthermore, the tax authorities strongly praise the Directive for providing a comprehensive set of tools and mechanisms for the exchange of information, from which the tool more fit for the purpose at hand can be selected, and which complement and reinforce each other. With respect to the other general objectives – improving the functioning of the Single Market and promoting fairness in taxation – the entire Directive and all its mechanisms are fit in theory, but in practice those targeted at corporate entities – DAC2, DAC4 and DAC5 – may progressively emerge as more relevant, given that corporate tax avoidance represents a higher priority for the EU and a larger scale phenomenon at present.

Effectiveness

The Directive has contributed to an improved ability to fight tax fraud, evasion, and avoidance, and the limited evidence available suggests that this has already started translating into incremental tax assessed. While the recent implementation of several of the provisions does not allow drawing firm conclusions, positive signals were recorded also as regards the Directive's potential in increasing spontaneous compliance through a deterrent effect. No elements have emerged yet as regards the effects on the reduction in the scope for harmful tax competition.

Undoubtedly, the Directive improved the ability of the Member States to fight against tax fraud, evasion, and avoidance, with respect to legal and natural persons operating, gaining incomes, or holding assets across multiple jurisdictions. This is unanimously acknowledged by the tax authorities, which appreciate especially the 'menu of options' that the Directive has created. Indeed, the various ACDT provisions have resulted in a toolbox, from which the tax officials can select the most useful tool for the case at hand or the objective to be pursued. Furthermore, the instruments supported by the Directive complement, trigger, and reinforce each other. This assessment is undisputed even considering that the quality and timeliness of certain data exchanges still present some flaws. At the same time, the national tax authorities are still learning how to best process and use the AEOI data received. The situation is positively evolving, as Member States are increasingly making use of the AEOI information and their ability to match it with national taxpayers' databases has also grown. However, as of 2017, not all Member States have started employing these data.

The Directive was also intended to contribute to reduce the scope for harmful tax competition, in particular via the amendments aiming at making the national tax systems more transparent, i.e. DAC3 and DAC4. On the latter, the first exchanges had just taken place, and hence no information on their outcomes is available. On the former, the evidence shows that the transparency of advanced rulings has increased. At the same time, this has so far not affected the behaviour of tax authorities in granting advanced tax rulings and pricing agreements, nor the attitude of firms demanding for these rulings.

In addition, the DAC mechanisms in general, and more specifically the AEOI, providing for the mass exchange of data about taxpayers at large, are expected to have a deterrent effect on taxpayers, thus increasing the spontaneous compliance with their tax obligations. On this effect, the evidence is not conclusive, due to the recent implementation of the AEOI mechanisms, and in particular of DAC2. However, tax authorities are already trying to take advantage of the deterrence, thus signalling the potential of AEOI in spurring spontaneous tax compliance. In particular, a number of actions have been launched by various Member States to invite taxpayers to spontaneously comply when discrepancies are identified between their tax declarations and the data received via the AEOI. The results have seemingly been positive, although no quantitative analysis of the outcomes is available yet.

As for its general objectives, the Directive was designed to contribute to safeguard Member States' tax revenues. Although the analysis is constrained by the very recent implementation of several DAC provisions, as well as by the lack of data on benefits, the findings show that both AEOI and non-AEOI provisions have contributed to achieve this objective. In the six Member States for which data are available, in 2016 and 2017, DAC1 AEOI generated an estimated increase in the tax assessed of about € 92 million. The extent to which the additional tax assessed is going to translate into additional tax collected is unclear, as the exemptions and deductions applicable under double taxation treaties limit the potential revenues. No information is available on the additional tax assessed thanks to DAC2, DAC3, and DAC4, due to their recent implementation. Information on the benefits of non-AEOI activities is also quite limited, with only a handful of countries providing this information. The total value of benefits for the period 2014-2017 is in the order of € 532 million, with major differences among Member States. All in all, the benefits from non-AEOI activities appear much higher than those from AEOI, possibly

also because those activities can be more easily linked to the outcome of an audit or investigation, and of the longer period covered by the data (four years compared to two for AEOI).

Very limited findings are available on the achievement of the other two general objectives – that is increasing tax fairness and promoting the proper functioning of the Single Market, as these impacts remain more elusive to capture even for informed stakeholders, who, during the targeted consultations, could hardly comment on these aspects. Notwithstanding the limited number of replies, from the Public Consultation, it results that the Directive is considered as having positively contributed to increasing the fairness of the tax systems, so that companies active cross-border and individuals with incomes from or assets in another Member State are more likely to pay their fair contribution. In line with this, the Directive's role in ensuring that cross-border companies do not enjoy an undue advantage – so that the Single Market functions more properly – is also praised by the Public Consultation respondents.

Efficiency

The Directive generated compliance costs and administrative burdens for Member States, economic operators (particularly financial institutions), and taxpayers. Data are too limited in order to draw firm conclusions on the cost-effectiveness, although in the medium term the Directive is estimated to generate net benefits.

The compliance costs quantified for 2015-2017 amount to nearly € 145 million. Most of the costs come from the AEOI mechanisms, whose deployment and operation required about € 130 million from national budgets, and an additional € 13 million of EU support. The costs were largely incurred for the development of the Information Technology (IT) systems (about 85% of the costs so far). IT compliance costs for financial operators to comply with the DAC2 provisions are also likely to be significant, and some independent sources estimate them at ten times the costs borne by the tax authorities, although a detailed assessment could not be provided. The fulfilment of the Directive's reporting obligations by Member States requires about 12 person/days per year in each country, and the total annual administrative burden at EU level thus amounts to around € 80,000.

In terms of cost savings, as reported by the tax authorities in the targeted consultation, the Directive has improved the efficiency of the EOIR mechanisms, because of the standardisation introduced by the e-forms and the common communication network. These IT tools made preparing, handling, and processing the requests for information faster and easier, compared with both the pre-Directive environment, and the mechanisms available under other legal frameworks. However, no quantification of the efficiency gains for tax authorities was possible, since the time and effort required to prepare and handle an EOIR and retrieve the information required vary widely on a case-by-case basis, in particular depending on whether a local tax office needs to be alerted, whether an interaction with the taxpayer is needed, and through which modality. Differently, the burden reduction enjoyed by taxpayers thanks to the pre-filling of tax declarations made possible by the AEOI could be quantified and are estimated in the range of € 0.5-1 million per year.

An assessment of the cost-effectiveness of the Directive is complicated, for four reasons: (i) a temporal hiatus between costs, incurred up-front, and benefits, which are slowly materialising; (ii) the lack of sufficient data on additional tax assessed, as they are only available from nine Member States; (iii) the significant variations in reported additional tax base or assessed, which may indicate the presence of outliers; and (iv) the impossibility to accurately disentangle the costs for tax authorities and financial institutions due to DAC2 to those generated by the implementation of the CRS and FATCA framework. Hence it is not yet possible to provide a definitive judgment on whether the outcomes achieved were commensurate with the costs incurred at EU level.

With all these caveats in mind, the Study does provide an estimation of whether, in the countries for which benefit data are available, the net benefits that the Directive has generated so far are positive or not. In all these Member States, the regulatory costs borne by the public authorities for implementing the DAC are lower than the additional tax assessed. Even when considering also the likely costs for financial institutions, benefits can be assessed to have overcome the costs in most cases. It is thus likely that, over the 2015-2017 period, the Directive has generated positive net benefits, when measured in terms of additional tax assessed.

Since a large share of the costs due to the AEOI systems have already been borne and considering that the benefits will grow the more the tax authorities effectively use the data received, over the medium-to-long term the net benefits can be reasonably expected to grow. At the same time, given that there is yet no information on the extent to which additional tax assessed will create additional tax revenues, and given the availability of data on benefits, this assessment is affected by a considerable degree of uncertainty.

Coherence

No major issues of coherence have emerged from the assessment, both internal to the Directive and external with respect to other adjacent pieces of legislation.

The good internal coherence of the Directive is noteworthy, given that it has been subject to repeated and frequent amendments. None of the various definitions and legal standards is a recurrent cause of impediments to the exchange of information among tax authorities. The common understanding of the Directive's provisions and their smooth implementation is also eased by the common reliance on the OECD explanatory documents. Some minor drawbacks were identified with respect to the coherence of the Directive with the administrative cooperation in the field of Value-Added Tax, which becomes particularly evident when the same activity covers both direct and indirect taxes. No negative interactions were identified with the Recovery Directive. As far as the anti-money laundering legislation is concerned, the differences in the legal definitions under the two frameworks could have limited the potential synergies with DAC2 and DAC5, and caused some overlapping compliance efforts during the early implementation of DAC2/CRS. Finally, although the OECD framework and the EU legislation are well aligned, the tax authorities indicated some burdensome discrepancies, e.g. between the DAC3 and Base Erosion and Profit Shifting framework, between the technical specifications under DAC2 and CRS, and between the deadlines for EOIR.

EU Added Value

The EU action in the area of ACDT has generated an added value compared to its possible alternatives, particularly when DAC1 AEOI and the increased efficiency of non-AEOI provisions are concerned.

First, the Directive resulted in additional benefits, the EU added Value of which could in part be quantified. Indeed, the benefits reported for DAC1 derive from an EU intervention which does not have any counterpart among the international initiatives and would have not been undertaken by Member States spontaneously. In six Member States for which data are available, the EU added value of this mechanism amounted to € 92 million of additional tax assessed in 2016 and 2017

Secondly, the Directive has resulted in efficiency gains, concerning DAC1, DAC2, and DAC3 exchanges, which are especially pronounced for non-AEOI DAC1 provisions. With respect to the latter, the e-forms and common communication network that were introduced to implement the Directive represents a clear advantage for the EU framework compared to the other international activities, and these would not have been deployed, had the EU action not been undertaken.

The additionality of the EU intervention in the area of ACDT is not only due to the Directive, but also to the EU budget support provided via the Fiscalis programmes, which enhanced the value-

for-money of the expenditures on IT infrastructure and software because of the economies of scale due to acting at the central level. Secondly, these programmes have also augmented the capacity of the Member States to participate in SC and PAOE, increasing the instances in which these tools were deployed.

Possible ways forward

There is a limited appetite for further changes to the Directive in the short term, as none of the revisions discussed with the tax authorities gained a vast support.

During the targeted consultation, the tax authorities were invited to comment on a list of possible revisions to the Directive, and namely: (i) the mandatory inclusion of the tax identification number of the residence country in the DAC1 AEOI records; (ii) the removal of the acknowledgement of receipt for EOIR and SEOI; (iii) the combination of Articles 6 and 11 on "Administrative enquiries" and "Presence in administrative offices and participation in administrative enquiries"; (iv) the explicit introduction of "joint audits"; (v) the removal of the availability clause in DAC1 AEOI (hence making the exchange of data on certain incomes and assets mandatory); and (vi) the inclusion of new income categories under DAC1 AEOI; (vii) the need to clarify a number of Directive's definitions and legal standards, such as the difference between taxes and fees, the standard of foreseeable relevance, the handling of group requests, or the possibility to use ACDT information for purposes other than taxation. The tax authorities and the other stakeholders could also indicate any additional revision that they considered necessary.

None of these revisions gained vast support among the tax authorities. This is possibly an unintended effect of the fatigue caused by the repeated amendments introduced since the adoption of the Directive. Also, as it emerged during the Study, several of the provisions of the Directive are still relatively under deployed (e.g. PAOE), and their potential remains not fully exploited. This explains the focus of the authorities on learning and exploiting the mechanisms currently at their disposal, rather than on modifying them or adding additional ones. The only revision receiving the support of most of the tax authorities would be the non-mandatory inclusion of additional income categories in DAC1 AEOI. The Evaluation findings also confirm that, in the short-term, there are no pressing issues which would require a legislative intervention.

The tax authorities would also avoid re-opening the Directive to clarify its definitions and legal standards. Although clarifications would be largely welcomed, should better be introduced by means of non-binding guidelines. More importantly, any revision or clarification needs to be coordinated with the framework for administrative cooperation in the field of indirect taxes and the OECD standards.

Annexes: Abbreviations and Acronyms

ACDT	Administrative Cooperation in Direct Taxation
AEFI	Expert Group on Automatic Exchange of Financial Account Information
AEOI	Automatic Exchange of Information
AML	Anti-Money Laundering
APA	Advance Pricing Agreement
ATR	Advance Tax Ruling
CbCR	Country-by-Country Reporting
CLO	Central Liaison Office
CRS	Common Reporting Standard
DAC	Directive on Administrative Cooperation
DAC1	Council Directive 2011/16/EU of 15 February 2011 on administrative cooperation in the field of taxation and repealing Directive 77/799/EEC
DAC2	Council Directive 2014/107/EU of 9 December 2014 amending Directive 2011/16/EU as regards mandatory automatic exchange of information in the field of taxation
DAC3	Council Directive (EU) 2015/2376 of 8 December 2015 amending Directive 2011/16/EU as regards mandatory automatic exchange of information in the field of taxation
DAC4	Council Directive (EU) 2016/881 of 25 May 2016 amending Directive 2011/16/EU as regards mandatory automatic exchange of information in the field of taxation
DAC5	Council Directive (EU) 2016/2258 of 6 December 2016 amending Directive 2011/16/EU as regards access to anti-money-laundering information by tax authorities
DAC6	Council Directive (EU) 2018/822 of 25 May 2018 amending Directive 2011/16/EU as regards mandatory automatic exchange of information in the field of taxation in relation to reportable cross-border arrangements
DF	Director's Fees
EC	European Commission
EI	Income from Employment
EOI	Exchange of Information
EOIR	Exchange of Information on Request
EU	European Union
IT	Information Technology
IP	Immovable Property
LIP	Life Insurance Products
MS	Member States
NGO	Non-Governmental Organization
OECD	Organization for Economic Co-operation and Development
OFACDT	Other Forms of ACDT
PAOE	Presence in Administrative Offices and participation in administrative Enquires
PEN	Pensions
PC	Public Consultation
SEOI	Spontaneous Exchange of Information
SG AEOI	Sub-Group on the Automatic Exchange of Information
SSG eFDT	Small Sub-Group 'Electronics Form for Direct Taxes'
WG ACDT	Working Group on Administrative Cooperation in the field of Direct Taxation
VAT	Value-Added Tax

ANNEX A - PUBLIC CONSULTATION - SYNOPSIS REPORT

A.1 Overview

This Synopsis Report provides the analysis of the results of the Public Consultation (PC) carried out in the framework of the Assignment. Its structure reproduces the design of the PC questionnaire.

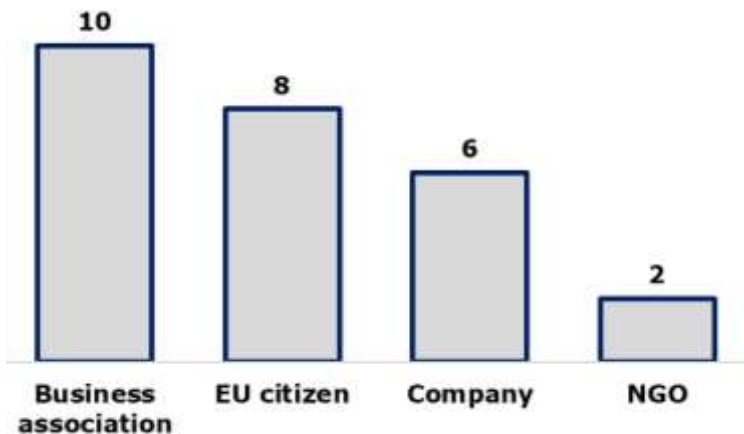
The PC questionnaire consists of 48 questions, grouped into 6 sections. Two sections are common to all the respondents: Section A aimed at collecting basic information on the participant, and Section B eliciting an overall assessment of the Directive. Four additional sections are customized based on the typology of the respondent, according to the following categories: C) individual taxpayers; D) legal entities and legal arrangements; E) providers of tax advice and accountancy services; and F) financial institutions. Stakeholders could upload an additional document at the end of the questionnaire and nine respondents did so.

The PC was launched on 10 December 2018 and it remained open until 4 March 2019, for a total of 12 weeks. **Thirty entities and individuals participated to the PC**, from 10 Member States (MS). As four respondents did not answer to the questionnaire, e.g. because they preferred to only upload a separate contribution at the end, the analysis in the Section A.2 to A.7 is based on **26 responses**. Nearly all valid respondents (25 out of 26) filled in the section on the assessment of the Directive, whereas the number of replies to the customised parts of the questionnaire varies, based on the profile of the respondents. Section A.8 provides a synthesis of the additional documents uploaded by the participants.

A.2 General section

Business associations (10) and European Union (EU) citizens (8) represented the most common type of respondent. Furthermore, two Non-Governmental Organizations (NGO) and six companies took part to the PC. As for the company size, three respondents were large enterprises, two small, and one micro³⁰⁹.

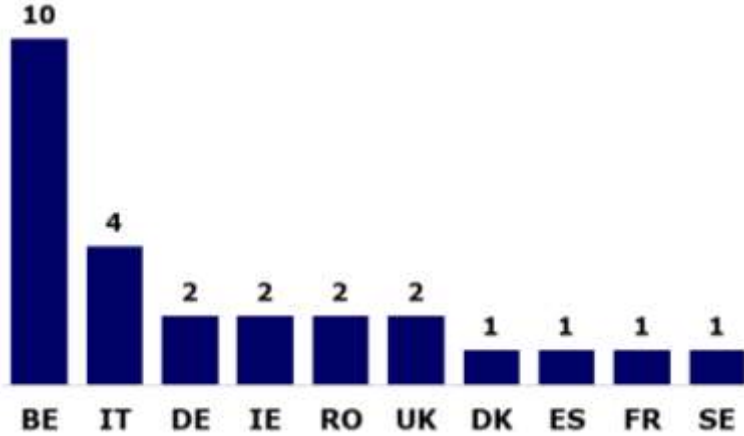
Question #2 What do you identify as?



³⁰⁹ Based on the staff headcount criterion, the European Commission distinguishes between: (i) micro enterprises (i.e. 1 to 9 employees); (ii) small enterprises (i.e. 10 to 49 employees) and (iv) medium enterprises (i.e. 50 to 249 enterprises). See Commission Recommendation of 6 May 2003 concerning the definition of micro, small and medium-sized enterprises, 20.05.2003. Large enterprises are intended as those with more than 250 employees.

The geographical distribution of the respondents covered **10 EU Member States** with Belgium (10) and Italy (4) being the most represented countries.

Question #10 What is your country of origin?

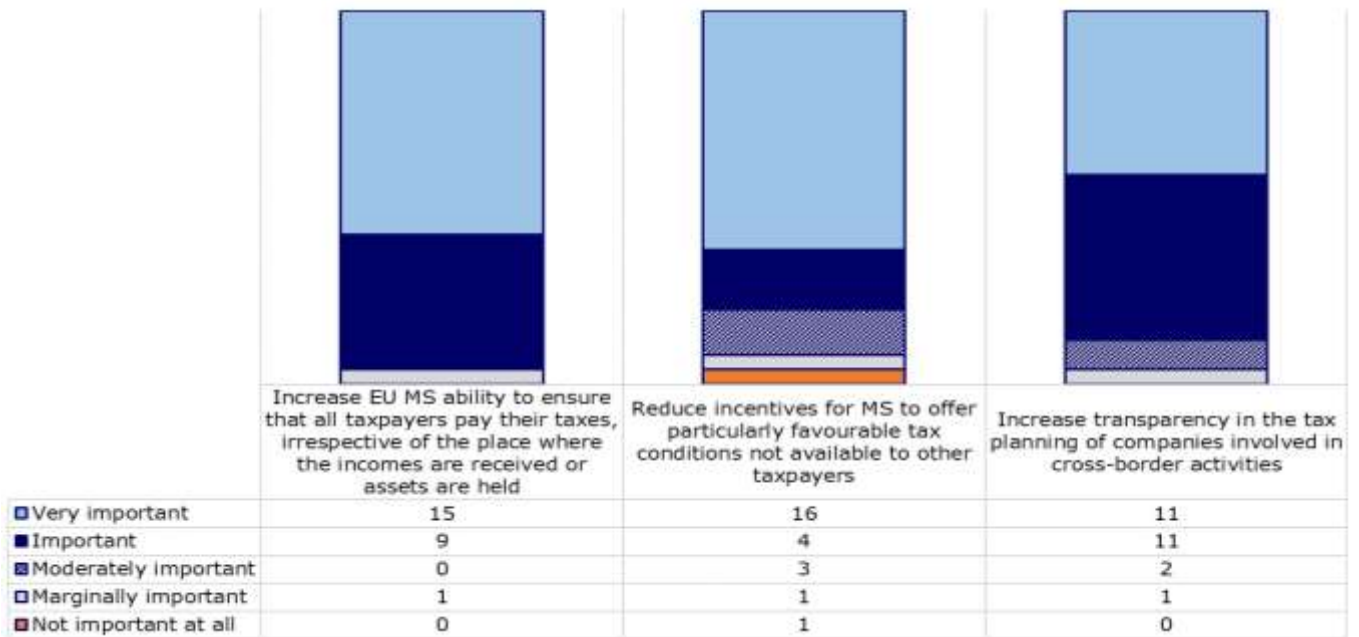


A.3 Overall assessment of the Directive

The second section of the PC was devoted to collecting the general opinions about the goals of Administrative Cooperation in the field of Direct Taxation (ACDT) as well as on the working of the Directive.

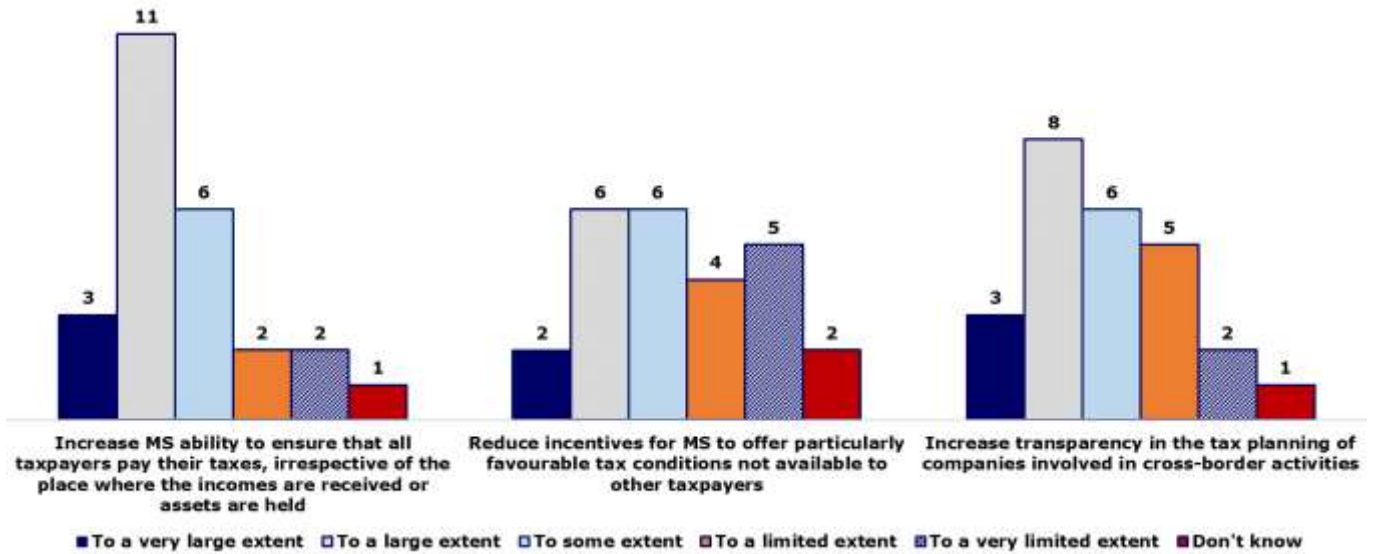
Respondents were asked to assess the importance of three goals of administrative cooperation, namely (i) to increase the capacity of Member States to ensure that all taxpayers pay their taxes, irrespective of where their incomes are gained and taxes held; (ii) reduce the incentives for Member States to engage in harmful tax competition; and (iii) increase the transparency in tax-planning of cross-border companies. Among the 25 respondents, **there was a general consensus that all the mentioned goals are important**. The first two objectives were rated as very important by respectively 15 and 16 respondents, while increase the transparency in tax planning for cross-border companies showed a marginally lower score, with 11 respondents considering it very important. A comparatively higher score across the three goals have been expressed by European citizens compared to business stakeholders.

Question #13 To what extent do you believe the following goals of administrative cooperation are important for Europe and globally?



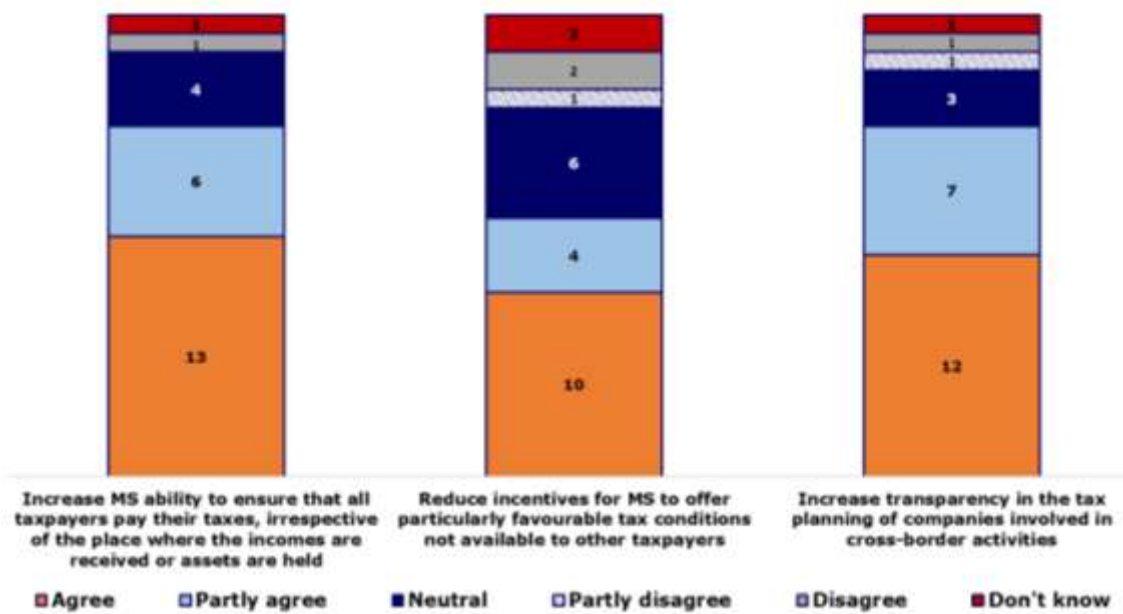
There was no clear-cut consensus among the respondents on whether the tools provided by the Directive to tax authorities are appropriate to meet the above-mentioned goals. In the opinion of the respondents, the **tools of the Directive appear to be better suited to increase Member State ability to ensure that all taxpayers pay their taxes.** Indeed, 11 respondents judged the tools of the Directive as being appropriate 'to a large extent' to this goal, while three respondents considered them appropriate 'to a very large extent'. Opinions about the appropriateness of the Directive's tools in relation to the second goal (i.e. reduce incentives for Member States to offer particularly favourable tax conditions not available to other taxpayers) appeared to be more controversial. Five respondents considered them appropriate 'to a very limited extent', while another six judged them being appropriate 'to some extent' or 'to a large extent'. A quite similar situation applied to the goal of increasing transparency in the tax planning of companies active in several EU Member States, where the tools of the Directive have been deemed as appropriate 'to a limited extent' by five respondents and appropriate 'to a large extent' by eight respondents.

Question #14 To what extent do you consider the tools given for tax authorities in the Directive appropriate to meet the goals?

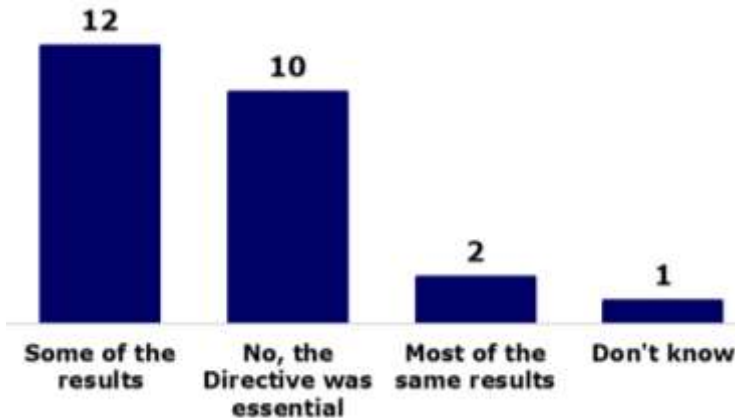


Nevertheless, **the majority of the respondents agreed in considering the effects of the Directive as contributing to achieving the goals of administrative cooperation.** Specifically, 19 respondents agreed or partially agreed on the fact that the Directive increased Member States’ ability to ensure that all taxpayers pay their taxes, irrespective of whether they are engaged in cross-border activities. The same number of favourable replies has been recorded for the goal of increasing transparency in the tax planning of companies active in several EU Member States. A slightly lower agreement among the respondents emerged when considering the effects of the Directive in reducing incentives for Member States to offer particularly favourable tax conditions not available to other taxpayers. Few replies expressed partial or total disagreement with these objectives. Among the various effects, reducing incentives for Member States to offer particularly favourable tax conditions not available to other taxpayers was the one for which a higher number of respondents was in partial or total disagreement (3).

Question #15 Concerning the effects of the directive, to what extent did the Directive contribute to the following objectives?



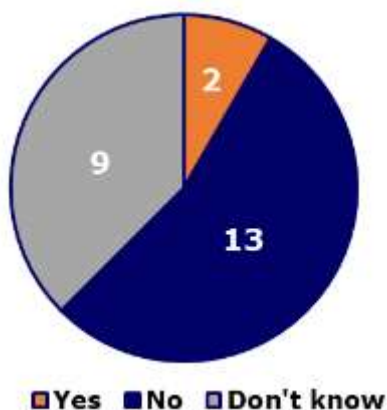
Question #16 In your opinion, would the same results have been achieved even without the Directive (i.e. by means of international initiatives or national interventions)?



Most respondents considered the Directive on Administrative Cooperation (DAC) as bringing additional value compared to international initiatives or national interventions. Indeed, just two respondents thought that (most of) the same results would have been achieved also without the Directive. To the contrary, ten respondents considered the Directive essential to achieve these results, and 12 respondents deemed that the achievement of some results would have been possible in absence of the Directive.

Some respondents commented that similar results could have been achieved through bilateral tax control initiatives of each Member States or thanks to the similar commitment that exist among Countries of the Organization for Economic Co-operation and Development (OECD). A number of replies focused on the positive factors linked to the Directive, which mainly have to do with (i) the establishment of a shared legal framework among Member States, which permit to implements Administrative Cooperation in Direct Taxation commitments “in a coherent and homogeneous manner”; (ii) the “increased public visibility of the issue” and the subsequent deterrent effect, meaning that taxpayers “might refrain from certain activities linked to tax avoidance or tax evasion”; and (iii) the development of a mandatory automatic exchange of information, which seems to be “the most effective way to improve the correct assessment of taxes [...]” (Question #17).

Question #18 - In your experience, do you see any aspects in which the Directive is not in line with other laws or initiatives?



The majority of the respondents (13 out of 25)³¹⁰ judged the Directive as being coherent with other laws or initiatives, while another two indicated to see some inconsistencies, but no concrete examples have been given (Question #19). Finally, nine respondents were not able to give an opinion on whether any of the provisions of the Directive is (or is not) in line with other laws or initiatives.

A.4 Individual taxpayers

The section targeted to 'individual taxpayers' intended to collect information on respondents identified as 'EU citizens'. A total of 8 replies were gathered.

Question #21 - Are you aware that your local tax authority receives automatically each year certain data on incomes received and financial assets held in other EU Member States by taxpayers of your country? Only two respondents declared not to be aware of the exchange of information among tax authorities, where the other six knew that their local tax authority automatically receives certain data on incomes received and financial assets held in other EU Member States concerning taxpayers which are tax resident therein. These latter respondents were also asked about their perception on the general awareness of taxpayers about the exchange of information for tax purposes. Among them, four respondents thought that most of the taxpayers are aware, whereas the other two thought that, respectively, only some or few taxpayers are aware of the mechanism (Question #22).

Question #23 - Do you have income and/or hold financial assets in other EU Member States? None of the respondents declared to have income and/or to hold financial assets in other EU Member State. Nevertheless, three of them have been contacted by their banks in which they hold one or more current accounts for providing additional information on their tax residence situation (Question #26). In two cases the interaction was exclusively via email, letter or telephone, whereas in one case a visit to the bank or financial institution was needed (Question #27).

A.5 Legal entities – legal arrangements

Only two replies have been collected under this section, which was targeted to companies, private enterprises and legal arrangements.

Question #28 - Did your banking institution request additional information concerning the tax residence situation of your company? In one out of the two cases, the banking

³¹⁰ The actual number of replies collected for question #18 is 26. However, one respondent replied both 'Yes' and 'No' to the same question, thus this specific case has not been included in the analysis.

institution requested additional information concerning the tax residence situation of the legal entity and the interaction took place via telephone, letter or email (Question #29).

Question #30 - Are you aware of the exchange of information between national tax authorities on advance tax rulings/advance pricing arrangements? Both respondents were aware of the exchange of information between national tax authorities on advance tax rulings/advance pricing arrangements, but no information on how this awareness changed their attitude towards applying for such a ruling/arrangement could be retrieved from the questionnaire (Question #31).

Question #32 - Is your company subject to Country-by-Country Reporting? Just one of the two respondents declared to have been subject to Country-by-Country Reporting (CbCR). Though compliance with this obligation mostly relied on already existing information, both respondents considered CbCR requirements as complex (Questions #33 and #34). For example, one legal entity explained that the conversion of the CbCR into an XML format could only be done with the assistance of external experts. This translated, the respondent specified, in "*estimated [costs of] € 10,000 (one time) and recurring [yearly] € 1,000*", pointing out that "*the indicated costs were only achievable through already existing, detailed, internal reporting, otherwise it would have become significantly more expensive*" (Question #35).

A.6 Providers of Tax Advice and Accountancy Services

Seven respondents replied as providers of Tax Advice and Accountancy Services, of which four identified as companies; two as business associations and one as NGO.

The respondents were asked to report on the general awareness of their clients about the fact that their home country tax authority receives automatically each year data on incomes received and financial assets held in other EU Member State (Question #36). **The great part of the respondents thought that all (2) or most (3) of their clients are aware**, while only two respondents thought, respectively, that some or few of their clients know about the exchange of information among tax authorities. When analysing the involvement of their clients in cross-border activities, four respondents specified that a little share of them (i.e. 0-10%) earn incomes from another Member States, while another two declared that most (i.e. >50%) of them do, whereas another one was not able to answer. Quite on the same line, the share of clients which held financial assets in another EU Member State was between 0-10% for three respondents; higher than 50% for three respondents and negligible for another respondent (Question #37).

Question #39 - Would you consider that the general awareness of your clients that information is exchanged between tax authorities has increased your clients' compliance with their tax obligations? All but one respondent thought that the general awareness of their clients of the exchange of information between tax authorities has increased the compliance with their tax obligations, even though the opinion differed on the magnitude of this effect. This was also mirrored by an increase in the perceived frequency of checks: although the number of replies only provide for an anecdotal view, five respondents considered that more than 10% of their clients were subject to checks on foreign incomes / assets (compared to three prior to 2015) (Question #38).

Question #40 - How would you assess the general awareness of your clients about exchange of information on advance tax rulings and advance pricing arrangements? Considering specifically this exchange of information, three respondents declared that all or most of their clients are aware, while three respondents thought that only some of their clients are. Moreover, according to three respondents the general awareness of their clients on the subject had no effect on their clients' interest to apply for a ruling or arrangement; for two respondents it increased their interest, while for just one respondent it had the effect of decreasing their clients' interest to apply for such rulings or arrangements.

A.7 Financial institutions

Two respondents replied to the section devoted to financial institutions or their organizations.

Respondents were first asked to assess how easy or difficult it was to collect the information required for DAC2 and Common Reporting Standard (CRS) exchanges and the subsequent submission of such information to the national authorities (Question #42). **One respondent judged the process as being very difficult, whereas for the other one it was neither easy nor difficult.** In both cases, the respondents specified that the actions needed to comply with the rules and to provide the required information involved (i) the setting up/modification of their internal procedures as well as of their Information Technology (IT) system; (ii) the training of staff; and (iii) other unspecified activities (Question #43).

The respondents were then invited to comment on the costs that those activities implied (Question #44). Although no quantitative data were provided, both respondents gave an overall picture of the efforts required. One respondent explained that some of its associate clients relied on in-house expertise (e.g. lawyers, IT experts, project managers), whereas others had to hire external consultants, thus incurring in higher costs, judged as “*significant*” by the other respondent experiencing the same situation. Furthermore, the “*too fast*” implementation and entry into force of the Directive (i) did not give enough time to adjust the internal arrangements accordingly (e.g. “*two years is a minimum time to change IT-systems*”); (ii) created difficulties in understanding and interpreting the piece of legislation, and ultimately (iii) contributed to increase the costs of the process. Specifically, the respondents complained about the “*quite extensive reporting*” required under DAC2, which made it “*a cost and time consuming exercise*”.

Question #45 - Did you get instructions and guidance from tax authorities to collect and submit the information required for DAC2 and CRS? Both the respondents declared to have had instructions and guidance from their tax authorities regarding the collection and submission of the information required for DAC2 and CRS. Nevertheless, only in one case this guidance has been judged as sufficient. Moreover, the respondent who was satisfied with the guidance received from its local tax authority did not get any feedback about the information provided, while the respondent who deemed the guidance as being not sufficient got a feedback from its local tax authority, even though it was rather limited (Question #46). Finally, in all the two cases the compliance with DAC2/CRS required the collection of new and existing information in equal part (Question #47).

Question #48 - What kind of interaction, if any, did your financial institution have with your clients to collect the information needed to comply with DAC2/CRS requirements? Only one financial institution replied to this question. For most of its clients (i.e. >50%) the interaction was limited to a written notification on the subject. Rather, interactions via e-mail, telephone or letter to request additional information as well as meetings to discuss the situation, submit information or sign documents were put in place for a significant minority of their clients (i.e. 10% - 50%).

A.8 Additional contributions

Nine respondents uploaded an additional document at the end of the questionnaire, further specifying their position with respect to the Directive on Administrative Cooperation or related issues. These organisations consist of four business associations representing specific industries or financial institutions, three companies providing tax advisory services, one sub-national Parliament, and one NGO. In three cases, the document uploaded represented the unique contribution to the PC. Here below, the main points raised in the contributions are summarised, without identifying the respondent.

Contribution provided by an international NGO:

- While recognizing the role of the Directive and its amendments in improving the administrative cooperation in the field of direct taxation between EU Member States, the respondent pointed out that the DAC still falls short of discouraging harmful tax competition within the EU, and of sufficiently improving the transparency of the tax planning of multinational companies. In the opinion of the respondent, (i) Country-by-Country Reporting details should be accessible to “*all the countries in which the companies operate*”, and especially to developing countries, as well as to the civil society as a whole; and (ii) Member States should increase cooperation in the area of harmful tax competition and transfer pricing through, for example, “*the introduction of unitary taxation, through the adoption of the proposal on the Common Consolidated Corporate Tax Base*”.

Contribution provided by a sub-national Parliament:

- International tax audits are welcomed by the respondent as a tool to achieve fair and uniform taxation while also avoiding duplicated audit costs for the taxpayers. They are also deemed useful to address the difficulties for national tax authorities caused by instances of double taxation and non-taxation, the occurrence of which has increased following the progressive globalisation of the economy. Nevertheless, improvements are still needed for the Directive to be the legal basis for ‘real’ international tax audits. Specifically: (i) the justification for maintaining the requirement for which the audited company must consent to the international audit should be re-assessed; (ii) the situations in which the request for an international audit can be declined should be clearly identified; (iii) more clarity should be provided in the Directive as regards the legal position and powers of competent officials carrying out audit activities in another Member State; (iv) the results of the audits should have binding effects also for future decisions (i.e. representing an alternative or an addition to advance pricing agreements); and (v) there should be more possibilities for activating administrative enquiries in another Member State, in line with the recent changes made to the administrative cooperation in the field of Value-Added Tax (VAT).³¹¹

Contribution provided by a provider of tax advisory services:

- Among Dutch and British companies, there is a good level of awareness about the exchange of information. Namely, the awareness is higher for Automatic Exchange of Information (AEOI) mechanisms, and lower for Exchange for information on Request and Spontaneous Exchange Of Information.
- There is a perceived lack of transparency on how the French Tax Authorities use the information collected through AEOI. Thus, as a general rule, taxpayers should be made aware of how their information is analysed and interpreted, and Member States should adopt a common methodology to deal with the information received, as to avoid “*inefficiencies in the treatment of similar situations within the EU*”.
- In Romania, the number of transfer pricing audits almost doubled since 2017, and this is considered as a sign of more efforts in the fight against international tax frauds.

Contribution provided by a provider of tax advisory services:

- The respondent pointed out that, in light of the General Data Protection Regulation³¹² and of a recent ruling enacted by the Court of Justice,³¹³ it could be appropriate to grant to the taxpayers the right to be notified whenever their information is exchanged, as well as the

³¹¹ Council Regulation (EU) No 904/2010 of 7 October 2010 on administrative cooperation and combating fraud in the field of value added tax.

³¹² Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC (General Data Protection Regulation).

³¹³ Case C-682/15 Judgement of 16 May 2017, *Berlioz Investment Fund SA v Directeur de l’administration des contributions directes*, EU:C:2017:373.

right to review the correspondence between tax authorities in advance and “*limit the information exchanged to what is most relevant*”;

- Furthermore, more actions are needed at European level in order to prevent and resolve legal disputes, which can be expected to arise from the combination of an increased amount of information available to the tax authorities and the significant changes occurred in the tax systems of several Member States over the last years.

Contribution provided by a provider of tax advisory services:

- While acknowledging that the recent European legislation had (and will have) the effect of reducing harmful tax practices (e.g. aggressive tax planning), the respondent pointed out to several issues: (i) the recent changes to the fiscal legislation brought about additional compliance costs, additional reporting requirements and more uncertainty, and these elements need to be taken into account when examining the efficiency and effectiveness of the Directive at stake; (ii) the increased transparency in the tax planning of companies carrying out cross-border activities could be clouded by the complexity of the rules at stake, which prevent the public from appreciating such an increase; and (iii) notwithstanding that the “*cooperation between countries is far superior to unilateral action*”, improvements are still needed by the Member States in order to reach “*a balanced tax system*”, which would be able to eliminate not only instances of non-taxation, but also cases of double taxation.

Contribution provided by a business association representing financial institutions:

- The large amount of information about the accounts holder which needs to be collected and shared under DAC2/CRS could be detrimental for individuals who wants to open a new bank account. For this reason, CRS reporting obligations would need to be more “*proportionate and balanced*” and include a *de minimis* threshold for reporting obligations, in order to limiting the risk of delays and additional costs for individuals accessing banking services;
- Difficulties were experienced by the respondent’s members in the implementation of DAC2/CRS, which mainly relate to: (i) the costs, resources and time constraints to comply with its requirements; (ii) the lack of a *de minimis* threshold for collecting and reporting the information that led to situations in which the information to be provided “*may be not proportionate to the risk involved*”; (iii) the lack of consistency that sometimes emerged between guidance published at local level and those published by the OECD, which translates into “*additional monitoring and compliance costs for financial institutions*”; and (iv) difficulties in reporting requirements, which stem from unclear CRS definitions and obligations.

Contribution provided by a business association representing financial institutions:

- The contribution focused on DAC6 and its implementation. While DAC6 is deemed a positive intervention, the respondent indicated that some aspects need to be better clarified (e.g. “*it should be clarified that tax advantages that are foreseen by the law [...] should not be reportable*”).

Contribution provided by a business association representing financial institutions:

- Considering the “*enormous efforts and high costs*” sustained by financial institutions in implementing DAC2 provisions (e.g. adapting the IT system; training of staff; dealing with inconsistent interpretations of the Directive across the EU Member States), the respondent noted the need to measure *ex ante* the impact that any future change to the current reporting rules could have, as to not worsen the administrative burden already bearing on stakeholders and individuals, which potentially create “*barriers to the free movement of capital, and, possibly, to the free provision of financial services across the EU*”. Moreover,

account holders should be better informed by tax authorities about the purpose and the requirements of DAC2.

- As regards DAC6, the respondent called the attention on the need for internal guidance from Member States on "*how the rules should be applied in practice*", and for a coherent application of those rules across Member States, in order to avoid any ambiguity on clients and transactions for which information should be disclosed.

Contribution provided by a business association representing operators active in the sectors of music, performing arts and live entertainments:

- The input provided mainly focused on the tax situation of artists and live performance organizations, which are subject to withholding taxes levied on performances taking place abroad. This arises because of the application of article 17 of the Double Tax Treaties between EU Member States on entertainers and sportspeople, and it leads to situations of double or excessive taxation, which constitute "*a genuine obstacle for cross-border work within the EU*". The respondent thus suggested to take advantage of the improved administrative cooperation between Member States to overcome problems linked to taxation of performing artists and, in particular, to include in the Directive the option that "*the proof of deduction of expenses can immediately be taken into consideration instead of being done afterwards*".

ANNEX B – EVALUATION MATRIX

Evaluation Questions (EQ)	Judgement Criteria (JC)	Indicators	Sources of Information
Implementation Assessment			
EQ#1 To what extent have the provisions of the Directive been implemented?	<ul style="list-style-type: none"> JC#1.1 Extent to which the Directive has been timely and fully transposed into national legislation 	<ul style="list-style-type: none"> Timeliness of transposition and entry into force, provision by provision Completeness of transposition, provision by provision Evidence of problems faced in transposition/entry into force, provision by provision 	<ul style="list-style-type: none"> Desk research (EUR-Lex, infringements database)
	<ul style="list-style-type: none"> JC#1.2 Effective uptake: extent to which Directive provisions have been applied 	<ul style="list-style-type: none"> Categories of incomes/assets subject to AEOI for which messages were exchanged and year of start, by Member State Ratio between categories of incomes/assets for which information is exchanged and categories for which information is available, by Member State per year Volume and flows of activities of AEOI, by Member State, type of income/asset, per year Engagement in and volume of activities of EOIR&SEOI activities, by Member State per year Engagement in OFACDT activities (PAOE and simultaneous controls, assistance in notification best practices exchanged), by Member State per year Presence of appropriate ACDT-related infrastructure in Member States 	<ul style="list-style-type: none"> Desk research (government documents) AEOI Data Non-AEOI Data Targeted consultations (Member States)
	<ul style="list-style-type: none"> JC#1.3 Extent to which institutional and operational factors have affected the implementation and uptake of the Directive provisions 	<ul style="list-style-type: none"> Legal constraints regarding the information subject to AEOI (e.g. data not available for some incomes/assets) Legal constraints to OFACDT (e.g. regulatory limits to PAOE) Operational supporting factors / constraints related to the Tax Authorities' IT infrastructure and capability Other supporting factors / constraints (e.g. available public resources, similarities of tax systems, number of residents working abroad) 	<ul style="list-style-type: none"> Desk research (government documents) AEOI Data Non-AEOI Data Targeted consultations (Member States)

Evaluation Questions (EQ)	Judgement Criteria (JC)	Indicators	Sources of Information
Evaluation 'Proper'			
Relevance			
<p>EQ#2 To what extent has the Directive adequately addressed the identified needs?</p>	<ul style="list-style-type: none"> JC#2.1 Extent to which the objectives of the Directive are aligned with the identified needs 	<ul style="list-style-type: none"> Ratio between country nationals' income and incomes exchanged under AEOI DAC1 Comparison between AEOI flows and information on incomes / assets generated by EU taxpayers in countries other than the one of residence (e.g. share of national income/asset generated in other EU countries; past and present intra-EU migration flows) Stakeholders' perception about the change in transparency of the treatment of cross-border economic operators by tax authorities Degree to which the Directive sets up the conditions for more uniform rules and procedures in administrative cooperation in direct taxation 	<ul style="list-style-type: none"> Desk research (tax statistics) AEOI Data Non-AEOI Data Targeted consultations (Member States) Public consultation
	<ul style="list-style-type: none"> JC#2.2 Extent to which the Directive mechanisms are in line with its objectives 	<ul style="list-style-type: none"> Stakeholders' perception of Directive fitness to safeguard Member States' tax revenues by limiting cross-border tax fraud and avoidance Degree to which the Directive mechanisms are in line with international best practices against cross-border tax fraud and avoidance Stakeholders' perception of Directive fitness to ensure a level-playing field in the Internal Market Stakeholders' perception of Directive fitness to increase the fairness of tax systems 	<ul style="list-style-type: none"> Desk research (literature review) Targeted consultations (Member States & other stakeholders) Public consultation
Effectiveness			
<p>EQ#3 To what extent has the Directive achieved the intended outcomes (i.e. specific objectives)?</p>	<ul style="list-style-type: none"> JC#3.1 Extent to which the Directive has enhanced Member States' ability to fight against tax fraud, evasion and avoidance 	<ul style="list-style-type: none"> Comprehensiveness of information received via AEOI for tax audit purposes (e.g. degree to which records can be matched to taxpayers) Use of information received via AEOI for tax audit purposes Effect of non-AEOI activities on the effectiveness of tax audits 	<ul style="list-style-type: none"> AEOI Data Non-AEOI Data Targeted consultations (Member States)

Evaluation Questions (EQ)	Judgement Criteria (JC)	Indicators	Sources of Information
	<ul style="list-style-type: none"> JC#3.2 Extent to which the Directive has reduced the scope for harmful tax competition 	<ul style="list-style-type: none"> Change in Member States' tax policies for multinational enterprises – including number of and approach to cross-border tax rulings - following the adoption of DAC3 / DAC4 Stakeholders' perception on the likelihood of DAC3 / DAC4 to reduce Member States' incentives to tax competition 	<ul style="list-style-type: none"> Targeted consultations (Member States) Public consultation
	<ul style="list-style-type: none"> JC#3.3 Extent to which the Directive had a deterrent effect increasing spontaneous tax compliance 	<ul style="list-style-type: none"> Changes in taxpayers' behaviour in areas covered by the Directive (e.g. abnormal variation of declared incomes/assets) Stakeholders' perception on the effect of the Directive on taxpayers' compliance 	<ul style="list-style-type: none"> Desk research (literature review) Targeted consultations (Member States & other stakeholders) Public consultation
EQ#4 To what extent has the Directive achieved the intended impacts (i.e. general objectives)?	<ul style="list-style-type: none"> JC#4.1 Extent to which the Directive has contributed to safeguard Member States' tax revenue 	<ul style="list-style-type: none"> Additional tax assessed and/or collected as a result of EOI (by EOI mode) Additional tax assessed and/or collected as a result of OFACDT (by type of action) 	<ul style="list-style-type: none"> AEOI Data Non-AEOI Data Targeted consultations (Member States)
	<ul style="list-style-type: none"> JC#4.2 Extent to which the Directive has contributed to other objectives 	<ul style="list-style-type: none"> Stakeholders' perception of the contribution of the Directive to ensure a level-playing field for economic operators Taxpayer's assessment of variation in the fairness of the tax system towards cross-border operators 	<ul style="list-style-type: none"> Targeted consultations (Member States) Public consultation
Efficiency			
EQ#5 What have been the costs (e.g. compliance costs, administrative burdens) and cost savings (e.g. because of easier / faster cooperation and exchanges) generated	<ul style="list-style-type: none"> JC#5.1 Level of costs and cost savings borne by tax authorities 	<ul style="list-style-type: none"> Compliance costs due to EOI Compliance costs due to OFACDT Share of compliance costs financed by the EU budget to support ACDT actions, cooperation and common tools Compliance cost savings compared to the pre-Directive situation Administrative burdens due to information obligations (e.g. provision of statistics) 	<ul style="list-style-type: none"> Desk research (literature review) AEOI data Non-AEOI data Targeted consultations (Member States)

Evaluation Questions (EQ)	Judgement Criteria (JC)	Indicators	Sources of Information
<p>by the implementation of and compliance with the Directive on stakeholders (Member States administrations, economic operators, citizens) and how do they compare?</p>	<ul style="list-style-type: none"> JC#5.2 Level of costs and cost savings borne by financial institutions 	<ul style="list-style-type: none"> Administrative burdens due to AEOI (DAC2) 	<ul style="list-style-type: none"> Desk research (literature review) Targeted consultations (financial sector)
	<ul style="list-style-type: none"> JC #5.3 Level of costs and cost savings borne by taxpayers 	<ul style="list-style-type: none"> Administrative burdens due to interaction with financial institutions – DAC2 Administrative burden reduction due to AEOI (e.g. tax declaration pre-filing) 	<ul style="list-style-type: none"> Desk research (literature review) Targeted consultations (tax advisors, taxpayers' associations) Public Consultation
	<ul style="list-style-type: none"> JC #5.4 Extent to which costs incurred are commensurate with the outcomes achieved 	<ul style="list-style-type: none"> Comparison of selected costs incurred and results achieved in the area of tax fraud and avoidance prevention, as emerging from the analysis of Effectiveness Stakeholders' views on whether the additional costs were justified based on the results achieved 	<ul style="list-style-type: none"> Desk research (literature review) Targeted consultations (Member States & other stakeholders) Public consultation
<p>Coherence</p>			
<p>EQ#6 To what extent are the provisions of the Directive consistent both internally and with other related interventions, EU</p>	<ul style="list-style-type: none"> JC#6.1 Extent to which provisions are internally consistent 	<ul style="list-style-type: none"> Existence of unclear definitions Existence of mismatches on operational matters among different provision of the directive (e.g. different time limits for AEOI DAC1 and DAC2) 	<ul style="list-style-type: none"> Non-AEOI data Targeted consultations (Member States) Public consultation

Evaluation Questions (EQ)	Judgement Criteria (JC)	Indicators	Sources of Information
<p><i>policies and strategies in the area of administrative cooperation and fight against tax fraud?</i></p>	<ul style="list-style-type: none"> JC#6.2 Extent to which provisions are consistent with related EU or international interventions 	<ul style="list-style-type: none"> Existence of conflicting provisions (e.g. some criteria reportedly narrower than in AML) Existence of supporting provisions e.g. in AML Existence of gaps or missing links (e.g. reported absence of exhaustive commentaries and/or guidelines from national authorities) Existence of overlaps (e.g. reported duplication of reporting for DAC and other pieces of EU legislation) 	<ul style="list-style-type: none"> Desk research (literature review) Targeted consultations (Member States & other stakeholders) Public consultation
<p>EU Added Value</p>			
<p><i>EQ#7 To what extent has the Directive brought additional benefits compared with what could have been achieved by Member States acting independently on national or international levels?</i></p>	<ul style="list-style-type: none"> JC#7.1: Extent to which the outcomes / impacts generated by the Directive are additional compared to national / international initiatives JC#7.2: Extent to which the ACDT mechanisms established by the Directive are superior to other platforms/channels 	<ul style="list-style-type: none"> Effectiveness indicators concerning tax control (appreciation of the role of the Directive to increase effectiveness of tax control and to generate additional tax compliance) Stakeholders' perception on the advantage of having mandatory exchanges and an EU supported common ACDT structure, procedures, IT formats and secure channels for Member States compared to international / national platforms Stakeholders' perception on the increased trust and likelihood of cooperation between Member States' national competent authorities Efficiency indicators concerning the amount of additional regulatory cost savings generated by having mandatory exchanges and an EU supported common ACDT structure, IT formats and secure channels for Member States and a set of common procedures 	<ul style="list-style-type: none"> Targeted consultations (Member States & other stakeholders) Public consultation Findings from other EQ Targeted consultations (Member States & other stakeholders) Public consultation

Evaluation Questions (EQ)	Judgement Criteria (JC)	Indicators	Sources of Information
	<ul style="list-style-type: none"> JC #7.3 Extent to which EU financial support enabled the achievement of additional outputs 	<ul style="list-style-type: none"> EOI which have materialised only (or mainly) because of the EU support, by type of EOI OFACDT which have materialised only (or mainly) because of the EU support Use or interest in using in the future IT modules built for AEOI in collaboration by some Member States participating the project, but shared with all Member States. 	<ul style="list-style-type: none"> Desk research (Fiscalis 2020 dataset) Targeted consultations (Member States)

ANNEX C – LIST OF PERSONS AND INSTITUTIONS CONTACTED³¹⁴

C.1 Member States Competent Authorities

Austria - Federal Ministry of Finance

- Mr. Christian BAUER, IT Unit
- Dr. Marion STIASTNY, Department IV/3 – Tax Law of the European Union

Belgium - Ministry of Finance

- Ms. Céline LEPAGE, International Relations
- Ms. Wendy ROELANDT, Advisor

Estonia - Estonian Tax and Customs Board

- Ms. Pille LEPIK, Chief Expert – International Information Exchange Unit

Finland - Finnish Tax Administration

- Ms. Terhi PUNTO-NISKANEN, Senior Advisor, International Taxation, Competent Official for EOI (MLC and PAOE coordinator)
- Mr. Jarno VESTERVIK, Senior Advisor/Competent Official for AEOI

Germany - Federal Central Tax Office

- Dr. Sarah BRINKSCHULTE, Deputy Head of Division – AEOI
- Ms. Petra KLAWIKOWSKI, Head of Division
- Ms. Petra KOERFGEN, Expert EOI
- Dr. Anne LEHDER, Deputy Head of Division – EOI
- Ms. Elke NIKOLJACIC, Expert DAC2

Greece - Independent Authority for Public Revenue

- Mr. Konstantinos BALATOS, Head of AEOI and Data Collection Department
- Mr. Chryssanthi DARLADIMA, CLO - International Administrative Cooperation Department
- Ms. Maria - Angeliki GKANOURI, Directorate of Audits
- Mr. Chrysanthos PELEKANOS, CLO - International Administrative Cooperation Department
- Ms. Aggeliki SIAKOULI, Head of Department of Special audits
- Ms. Christina ZACHARIADOU, CLO - International Administrative Cooperation Department
- Mr. Dimitrios ZOIS, CLO - International Administrative Cooperation Department

Hungary - National Tax and Customs Office

- Dr. Nóra EMRI, CLO - AEOI

Italy – Agenzia delle Entrate

- Mr. Gioacchino D'ANGELO, Head of International Cooperation Office
- Ms. Simona DELL'ANNA, International Cooperation Office
- Ms. Agata SARDO, International Cooperation Office

Latvia - State Revenue Service

- Ms. Jeļena DOROHINA, Head of Central Information Exchange Division

Lithuania – State Tax Inspectorate

- Mr. Danas MIKAILIONIS, Deputy Director of International Cooperation Department

³¹⁴ The list does not include a limited number of persons who explicitly requested to remain anonymous.

Netherlands – Dutch Tax Authority

- Mr. Arthur FOKKINGA, APM/Programme manager - International Data exchange AEOI
- Ms. Jeanette GROENMAN, Advisor - Ministry of Finance
- Mr. Milo LEHMANN, CAP data CRS FATCA - Tax Authority
- Mr. Adri PATER, Architect - Tax Authority/Information & IT
- Mr. Richard PIJLMAN, Team Leader APA/ATR - Tax Authority
- Ms. Jolanda ROELOFS, Fiscal advisor -Tax Authority/CLO

Poland – Ministry of Finance – National Revenue Administration

- Ms. Kamila ZAKRZEWSKA, Head of Exchange of Tax Information and International Relations Division

Sweden – Skatteverket

- Ms. Ann ANDRÉASSON, Deputy Head of Central Liaison Office for Direct Taxes and VAT
- Mr. Robert PERSSON, Project Manager AEOI

United Kingdom - HM Revenue & Customs

- Mr. Vijay UPADHYAY, Offshore Data Exchange Team

C.2 Financial Sector

EBF - European Banking Federation

- Mr. Roger KAISER, Senior Policy Advisor - Tax and Crime

Fédération Européenne des Conseils et Intermédiaires Financiers

- Mr. Vincent J. DERUDDER, Honorary Chairman/Chair of the Advisory Committee

ABI – Associazione Bancaria Italiana

- Dr.ssa Silvia ANZINI, Tax, Budget and Supervision Office
- Dr. Andrea NOBILI, Head of Tax, Budget and Supervision Office
- Dr.ssa Simona RICCI, Tax, Budget and Supervision Office

AFME- Association for Financial Markets in Europe

- Mr. Adam WILLMAN, Director – Tax Policy

Austrian Bankers' Association

- Mr. Michael KONRAD, Tax Matters - Representative in Fiscal Committee EBF

Bundesverband der Deutschen Volksbanken und Raiffeisenbanken (BVR)

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- Mr. Vincent DUMONT, Fiscal Expert

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- Ms. Clio CÉLIS, Legal and Tax Officer
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PensionsEurope

- Ms. Delphine CHARLES-PERONNE, Head of Tax and Accounting (Association Française de la Gestion Financière)

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- Ms. Ella GRUNDELL, Tax Counsel/Tax Lawyer - Group Legal Operational Taxes

C.3 Tax Advisors

- Mr. Luca BISIGNANI, Studio Pugliese, Tax Advisor (Italy)
- Mr. Sebastian DIEPOLD, Tax Advisor (Germany)
- Mr. Daniel FEICHTNER, Tax Advisor (Germany)
- Mr. Antoine FERRANDINI, Lawyer (France)
- Mr. Thomas LANG, Tax Advisor (Germany)
- Ms. Anna MISIAK, Vice-President of the National Council of Tax Advisers (Poland)
- Mr. Valerio ROCCHI, Tax Advisor (Italy)
- Mr. Enzo SPISNI, Tax Advisor at Studio Pugliese (Italy, information on Czech Republic)

C.4 Others

CBGA India - Centre for Budget and Governance Accountability

- Mr. Suraj JAISWAL, Programme Consultant

Christian Aid

- Mr. Toby QUANTRILL, Global Lead on Economic Justice

European Citizen Action Service

- Mr. Manuel MALHEIROS, Member of the AEFI Expert Group

OECD

- Dr. Anzhela CÉDELLE, Counsellor

Tax Justice Network

- Mr. Andres KNOBEL, Researcher

ANNEX D - REFERENCES

D.1 EU Legislation, Policy Documents, Meeting Minutes

- AEFI, 6th meeting – 10 November 2016 and AEFI, 7th meeting – 12 June 2017
- Case C-133/13, Judgement of 18 December 2014, *Staatssecretaris van Economische Zaken, Staatssecretaris van Financiën v Q*, EU:C:2014:2460
- Case C-682/15 Judgement of 16 May 2017, *Berlioz Investment Fund SA v Directeur de l'administration des contributions directes*, EU:C:2017:373
- Commission Decision on state aid SA.38944 implemented by Luxembourg to Amazon, 4 October 2017
- Commission Staff Working Document for the evaluation of the use of mutual tax recovery assistance on the basis of Directive 2010/24/EU by the EU Member States Accompanying the document Report from the Commission to the European Parliament and the Council on the operation of the arrangements established by Council Directive 2010/24/EU of 16 March 2010 concerning mutual assistance for the recovery of claims relating to taxes, duties and other measures, SWD (2017)461, 18.12.2017
- Commission Staff Working Document, Impact Assessment Accompanying the document Amended proposal for a Council Regulation amending Regulation 904/2010 as regards measures to strengthen administrative cooperation in the field of value added tax, SWD (2017)428, 30.11.2017, Annex 3
- Commission Staff Working Document, Impact Assessment Accompanying the document Proposal for a Council Directive amending Directive 2006/112/EC as regards harmonising and simplifying certain rules in the value added tax system and introducing the definitive system for the taxation of trade between Member States, SWD(2017)325, 4.10.2017
- Commission Staff Working Document, Impact Assessment Accompanying the document Proposal for a Directive of the European Parliament and of the Council on the prevention of the use of the financial system for the purpose of money laundering, including terrorist financing and Proposal for a Regulation of the European Parliament and of the Council on information accompanying transfers of funds, SWD (2013)21, 5.2.2013, at p.5
- Commission Staff Working Document, Technical analysis of focus and scope of the legal proposal Accompanying the document Proposal for a Council Directive amending Directive 2011/16/EU as regards exchange of information in the field of taxation, SWD(2015) 60, 18.3.2015, at p. 15
- Communication from the Commission to the Council, the European Parliament and the European Economic and Social Committee, Promoting Good Governance in Tax Matters, COM(2009)201, 28.4.2009
- Communication from the Commission to the Council, the European Parliament and the European Economic and Social Committee concerning the need to develop a co-ordinated strategy to improve the fight against fiscal fraud COM(2006) 254,13.7.2007, at p.1
- Communication from the Commission to the Council, the European Parliament and the Economic and Social Committee, Tax policy in the European Union — priorities for the years ahead, COM(2001) 260, 23.5.2001
- Communication from the Commission to the European Parliament and the Council, An Action Plan to strengthen the fight against tax fraud and tax evasion, COM(2012)722, 4.6.2012
- Communication from the Commission to the European Parliament and the Council, Communication on further measures to enhance transparency and the fight against tax evasion and avoidance, COM(2016) 451, 5.7.2016
- Communication from the Commission to the European Parliament and the Council, Anti-Tax Avoidance Package: Next steps towards delivering effective taxation and greater tax transparency in the EU, COM(2016)23, 28.1.2016

- Communication from the Commission to the European Parliament and the Council, a Fair and Efficient Corporate Tax System in the European Union: 5 Key Areas for Action, COM(2015)302, 17.6.2015
- Communication from the Commission to the European Parliament and the Council on tax transparency to fight tax evasion and avoidance, COM(2015) 136, 18.3.2015
- Communication from the Commission to the European Parliament and the Council on concrete ways to reinforce the fight against tax fraud and tax evasion including in relation to third countries, COM(2012)351, 27.6.2012
- Communication from the Commission to the European Parliament, the Council, the European Central Bank, the European Economic and Social Committee, the Committee of the Regions And The European Investment Bank, Annual Growth Survey 2019: For a stronger Europe in the face of global uncertainty, COM(2018) 770, 21.11.2018, p. 11
- Council Decision 2000/642/JHA of 17 October 2000 concerning arrangements for cooperation between financial intelligence units of the Member States in respect of exchanging information
- Council Directive 2003/48/EC of 3 June 2003 on taxation of savings income in the form of interest payments.
- Council Directive (EU) 2015/2376 of 8 December 2015 amending Directive 2011/16/EU as regards mandatory automatic exchange of information in the field of taxation
- Council Directive (EU) 2016/2258 of 6 December 2016 amending Directive 2011/16/EU as regards access to anti-money-laundering information by tax authorities
- Council Directive (EU) 2016/881 of 25 May 2016 amending Directive 2011/16/EU as regards mandatory automatic exchange of information in the field of taxation
- Council Directive 2010/24/EU of 16 March 2010 concerning mutual assistance for the recovery of claims relating to taxes, duties and other measures
- Council Directive 2011/16/EU of 15 February 2011 on administrative cooperation in the field of taxation and repealing Directive 77/799/EEC
- Council Directive 2014/107/EU of 9 December 2014 amending Directive 2011/16/EU as regards mandatory automatic exchange of information in the field of taxation
- Council Directive 76/308/EEC of 15 March 1976 on mutual assistance for the recovery of claims resulting from operations forming part of the system of financing the European Agricultural Guidance and Guarantee Fund and of agricultural levies and customs duties
- Council Directive 77/799/EEC of 19 December 1977 concerning mutual assistance by the competent authorities of the Member States in the field of direct taxation
- Council of the European Union, Preventing tax evasion and fraud: the scope for automatic exchange of information is extended, Press Release, 9 December 2014
- Council Regulation (EU) 2018/1541 of 2 October 2018 amending Regulations (EU) No 904/2010 and (EU) 2017/2454 as regards measures to strengthen administrative cooperation in the field of value added tax
- Council Regulation (EU) No 904/2010 of 7 October 2010 on administrative cooperation and combating fraud in the field of value added tax
- Decision No 1482/2007/EC of the European Parliament and of the Council of 11 December 2007 establishing a Community programme to improve the operation of taxation systems in the internal market (Fiscalis 2013) and repealing Decision No 2235/2002/EC, 15.12.2017
- Directive (EU) 2015/849 of the European Parliament and of the Council of 20 May 2015 on the prevention of the use of the financial system for the purposes of money laundering or terrorist financing, amending Regulation (EU) No 648/2012 of the European Parliament and of the Council, and repealing Directive 2005/60/EC of the European Parliament and of the Council and Commission Directive 2006/70/EC

- Directive (EU) 2018/843 of the European Parliament and of the Council of 30 May 2018 amending Directive (EU) 2015/849 on the prevention of the use of the financial system for the purposes of money laundering or terrorist financing, and amending Directives 2009/138/EC and 2013/36/EU
- Directive 2014/65/EU of the European Parliament and of the Council of 15 May 2014 on markets in financial instruments and amending Directive 2002/92/EC and Directive 2011/61/EU
- Document ACDT n° 105, Fiscalis Project Group 049, Joint Audits, FPG/049, 13.04.2016 - Final Report
- European Commission (2018), 2017 Annual Report on Intra-EU Labour Mobility - Final Report, January
- European Commission, 'Towards a single EU VAT area - Time to act', Amended proposal for a Council Regulation amending Regulation (EU) No 904/2010 as regards measures to strengthen administrative cooperation in the field of value added tax, 30.11.2017
- European Commission, 6th SSG eFDT – 14 January 2016 - Summary Report, 1 March 2016
- European Commission, DG TAXUD, EU Joint Transfer Pricing Forum, A coordinated approach to transfer pricing controls within the EU, DOC: JTPF/013/2018/EN, October 2018
- European Commission, Expert Group on Automatic Exchange of Financial Account Information - Meeting on 12 June 2017 – Summary Record, 6 July 2017
- European Commission, Expert Group on Automatic Exchange of Financial Account Information - Meeting on 10 November 2016 – Summary Record, 26 January 2017
- European Commission, Fact Sheet – December infringements' package: key decisions, 7 December 2017
- European Commission, Fact Sheet – January infringements' package: key decisions, 24 January 2019
- European Commission, Fact Sheet – July infringements' package – Part 1: key decisions, 13 July 2017
- European Commission, Fact Sheet – July infringements' package: key decisions, 19 July 2018
- European Commission, Fact Sheet – June infringements' package: key decisions, 7 June 2018
- European Commission, Fact Sheet - November infringements' package: key decisions, 8 November 2018
- European Commission, Fact Sheet - September infringements' package: key decisions, 29 September 2016
- European Commission, First Report of the Commission AEFI on the implementation of Directive 2014/107/EU for automatic exchange of financial account information, March 2015
- European Commission, Monitoring the application of EU law in EU policy areas – Annual Report 2016, July 2017
- European Commission, Monitoring the application of EU law in EU policy areas – Annual Report 2017 July 2018
- European Commission, Report from the Commission to the Council in accordance with Article 18 of Council Directive 2003/48/EC on taxation of savings income in the form of interest payments, 2 March 2012
- European Commission, SG AEOI - 19 May 2017 – Minutes of the meeting, 15 June 2017
- European Commission, Staff working paper - The internal market: factual examples of double non-taxation cases - Consultation document, undated (but 2012)
- European Commission, WG ACDT – 36th meeting - 17-18 November 2015 – Summary Report, 14 December 2015
- European Council, Conclusions, 22 May 2013

- European Parliament (2018), A Public Opinion Monitoring Study, Delivering on Europe - citizens' views on current and future EU action, Eurobarometer Survey 89.2, September
- Fiscalis Workshop 098, Use and Disclosure of Information exchanged under the Council Directive 2011/16/EU, FWS/098/001, 27.9.2018
- Juncker, J.-C., A New Start for Europe: My Agenda for Jobs, Growth, Fairness and Democratic Change Political guidelines for the next European Commission Opening Statement in the European Parliament Plenary Session Strasbourg, 22 October 2014
- Proposal for a Council Directive amending Directive 2011/16/EU as regards mandatory automatic exchange of information in the field of taxation, COM(2017) 335, 12.6.2013
- Proposal for a Council Directive amending Directive 2011/16/EU as regards mandatory automatic exchange of information in the field of taxation, COM(2016) 25, 28.1.2016
- Proposal for a Council Directive amending Directive 2011/16/EU as regards mandatory automatic exchange of information in the field of taxation, COM(2015) 135, 18.3.2015
- Proposal for a Council Directive on administrative cooperation in the field of taxation, COM(2009) 29, 2.2.2009
- Proposal for a Decision of the European Parliament and of the Council on the mobilisation of the European Globalisation Adjustment Fund in accordance with point 28 of the Interinstitutional Agreement of 17 May 2006 between the European Parliament, the Council and the Commission on budgetary discipline and sound financial management, COM(2012) 272, 4.6.2012
- Proposal for a Decision of the European Parliament and of the Council on the mobilisation of the European Globalisation Adjustment Fund in accordance with point 28 of the Interinstitutional Agreement of 17 May 2006 between the European Parliament, the Council and the Commission on budgetary discipline and sound financial management, COM(2012) 727, 4.6.2012
- Proposal for a Directive of the European Parliament and of the Council laying down rules facilitating the use of financial and other information for the prevention, detection, investigation or prosecution of certain criminal offences and repealing Council Decision 2000/642/JHA, COM (2018)213, 17.4.2018
- Recommendation of the Council to Facilitate Co-operation between Tax and Other Law Enforcement Authorities to Combat Serious Crimes, adopted on 14 October 2010
- Regulation (EU) No 1286/2013 of the European Parliament and of the Council establishing an action programme to improve the operation of taxation systems in the European Union for the period 2014-2020 (Fiscalis 2020) and repealing Decision No 1482/2007/EC, 20.12.2013
- Remeur C., and Dobрева A. (2019), European Parliamentary Research Service, The fight against tax fraud, Briefing EU policies,
- Report from the Commission to the European Parliament and the Council on the application of Council Directive (EU) 2011/16/EU on administrative cooperation in the field of direct taxation, COM(2017)781, 18.12.2017,
- Report from the Commission to the European Parliament and the Council on overview and assessment of the statistics and information on the automatic exchanges in the field of direct taxation, COM (2018)844, 17.12.2018
- WG ACDT - 28th meeting of 20-21 January 2014 and the 29th meeting of 10-11 April 2014
- WG ACDT - 37th meeting – 21-22 April 2016, Summary Report
- WG ACDT – 38th meeting – 28-29 June 2016 – Summary Report, 11 July 2016
- WG ACDT – 39th meeting – 13-14 October 2016, Summary Report, 27 October 2016
- WG ACDT – 40th meeting – 6 February 2017 – Minutes of the meeting, 27 February 2017
- WG ACDT 43rd meeting – 27 September 2018, Minutes of the meeting, 4 October 2018

- WG ACDT, SG AEOI- 12th meeting – 1 December 2017, Minutes of the meeting, 16 January 2018
- WG ACDT, SSG eFDT, 10th meeting – 22-23 November 2016; WG ACDT, SSG eFDT – 11th meeting- 19 October 2017

D.2 Other References

- Agenzia delle Entrate (2015), Voluntary disclosure: 3,8 miliardi di gettito e oltre 129mila istanze - Il bilancio dell'operazione presentato oggi al MEF, Comunicato Stampa,
- Alt J. (2016), German Country Report, Tax Justice & Poverty
- Alvarez-Martinez, M., Barrios, S., d'Andria, D., Gesualdo, M., Nicodème, G., & Pycroft, J. (2018). How Large is the Corporate Tax Base Erosion and Profit Shifting? A General Equilibrium Approach
- Bethmann D. and M. Kvasnickay (2017), International Tax Evasion, State Purchases of Confidential Bank Data and Voluntary Disclosures, mimeo
- CASE – Center for Social and Economic Research (2018), Report for the European Commission, Study and Reports on the VAT Gap in the EU-28 MS, Final Report
- Circulaire du Ministre du Budget, Traitement des déclarations rectificatives des contribuables détenant des avoirs à l'étranger : transparence et droit commun, 21 juin 2013
- Commonwealth of Australia, Explanatory Memoranda - Tax Laws Amendment (Implementation of the Common Reporting Standard) Bill 2015, (accessible via http://classic.austlii.edu.au/au/legis/cth/bill_em/tlaotcrsb2015658/memo_0.html)
- Cour des comptes (2017), Les régularisations d'avoirs à l'étranger gérées par le service de traitement des déclarations rectificatives (STDR)
- Deloitte (2013), The road ahead: An in-depth analysis of the final FATCA regulations
- Deloitte (undated), DAC vs EUSD – Conceding the battle to win the war (against tax evasion)?
- Dover, R. Ferrett, B., Gravino, D., Jones, E. and S. Merler (2015), Bringing Transparency, Coordination and Convergence to Corporate Tax Policies in the European Union, Research Paper prepared for the European Parliament Research Service
- ECOPA and CASE (2019), Estimating International Tax Evasion by Individuals – Draft final report for the European Commission, unpublished
- Finér L and A Tokola (2017), The Revolution in Automatic Exchange of Information: How Is the Information Used and What Are the Effects?, Bulletin for International Taxation
- French Senate, Séance du 12 février 2014, Comptes rendus de la Commission des Finances
- GAO (2017), Tax Gap - IRS Needs Specific Goals and Strategies for Improving Compliance
- Garz M. and V. Pagels (2017) Cautionary Tales: Celebrities, the News Media, and Participation in Tax Amnesties, CESifo Working Paper No. 6795
- [Goolsbee A. \(2006\), The 'Simple Return': Reducing America's Tax Burden Through Return-Free Filing, The Brookings Institution, Discussion Paper 2006-004](#)
- Greive M. (2015), Angst vor den Fahndern, Welt am Sonntag
- HMRC, Offshore disclosure facilities, available at <https://www.gov.uk/guidance/offshore-disclosure-facilities>
- HMRC, Regulations to implement the UK's automatic exchange of information agreements, 18 March 2015
- Jogarajan S (2011), Prelude to the International Tax Treaty Network: 1815–1914 Early Tax Treaties and the Conditions for Action, Oxford Journal of Legal Studies
- Knobel A. (2018), Reporting taxation: Analysing loopholes in the EU's automatic exchange of information and how to close them, Report commissioned by the Greens/EFA Group in the European Parliament
- Langenmayr D. (2017), Voluntary disclosure of evaded taxes — Increasing revenue, or increasing incentives to evade? Journal of Public Economics

- Legge del 15 dicembre 2014 n. 186, Disposizioni in materia di emersione e rientro di capitali detenuti all'estero nonché per il potenziamento della lotta all'evasione fiscale. Disposizioni in materia di auto-riciclaggio
- Marino, G. (2015, ed.), Nex Exchange of Information versus Tax Solutions of Equivalent Effect, Proceeds of the EATLP Annual Congress Istanbul, 29-31 May 2014
- Monger T. (2016), Sticks without Carrots - The Worldwide Disclosure Facility and the Requirement to Correct, Tax Adviser
- OECD (1998), Harmful Tax Competition: An Emerging Global Issue
- OECD (2002), Agreement on the Exchange of Information on Tax Matters (Model TIEA), OECD Publishing
- OECD (2005), Update to Article 26 of the OECD Model Tax Convention and its Commentary Approved by the OECD Council on 15 July 2005
- OECD (2012), Update to Article 26 of the OECD Model Tax Convention and its Commentary Approved by the OECD Council on 17 July 2012
- OECD (2015), Transfer Pricing Documentation and Country-by-Country Reporting, Action 13, Final Report,
- OECD (2016) Terms of Reference to Monitor and Review Progress Towards Transparency and Exchange of Information on Request for Tax Purposes
- OECD (2017), Model Tax Convention on Income and on Capital: Condensed Version 2017, OECD Publishing
- OECD (2017), Standard for Automatic Exchange of Financial Account Information in Tax Matters, Second Edition
- OECD (2018), Harmful Tax Practices – 2017 Peer Review Reports on the Exchange of Information on Tax Rulings: Inclusive Framework on BEPS: Action 5, OECD/G20 Base Erosion and Profit Shifting Project, OECD Publishing
- OECD and Council of Europe (2011), The Multilateral Convention on Mutual Administrative Assistance in Tax Matters: Amended by the 2010 Protocol, OECD Publishing
- OECD, Members of the Inclusive Framework on BEPS, Updated: January 2019. Available at: <https://www.oecd.org/ctp/beps/inclusive-framework-on-beps-composition.pdf>
- OECD, Sixth meeting of the OECD Forum on Tax Administration, Joint Audit Report – Istanbul, 15-16 September 2010, available at <http://www.oecd.org/tax/administration/45988932.pdf>
- Office for Budget Responsibility, Economic and fiscal outlook, March 2016
- Office for Budget Responsibility, Economic and fiscal outlook, March 2017
- Opinion of the National Regulatory Control Council annexed to Bundesrat, Entwurf eines Gesetzes zum automatischen Austausch von Informationen über Finanzkonten in Steuersachen und zur Änderung weiterer Gesetze, 14.08.2015
- Oxford Research & others (2019), Report for the Commission, Mid-term evaluation of the Fiscalis 2020 programme - Final report.
- Ramboll (2014), Report for the European Commission, Final evaluation of the Fiscalis 2013 programme, Final Report
- Reuter, German state buys tax CD containing Swiss bank client data, 21 December 2014
- SCM Network (2009), International Standard Cost Model Manual
- Sturm-Martin I. (2014), Migration in European History, lecture delivered at the European University Institute on 17-18 November 2014
- Thornberry, T. P., and Krohn, M. D. (2003), Comparison of self-report and official data for measuring crime. In Measurement problems in criminal justice research: Workshop summary (pp. 43-94). Washington, DC: National Academies Press

- United Nations (2017) Population Division, Workbook: UN Migrant Stock By Origin And Destination
- Van Mol, C., and de Valk H., (2016), Migration and Immigrants in Europe: A Historical and Demographic Perspective, in Garcés-Mascreñas B and R Penninx (eds), Integration Processes and Policies in Europe - Contexts, Levels and Actors

ANNEX E – TRANSPOSITION OF DAC PROVISIONS

E.1 Introduction

This Annex provides detailed information on the transposition of DAC provisions into national legislation. The Annex covers primary and, when appropriate, secondary information (e.g. decrees or equivalent), with exclusion of lower level regulatory measures (e.g. ministerial decrees and circulars). The information was derived from the EUR-Lex database, cross checked whenever feasible with national sources.

E.2 National Measures Transposing DAC1 Provisions

MS	Measures Adopted
AT	<ul style="list-style-type: none"> • EU Mutual Assistance Act as part of the 2012 Tax Act, Bundesgesetzblatt für die Republik Österreich; 112; 2012-12-14 • Order of the Federal Minister for Finance on the implementation of the automatic exchange of information, Bundesgesetzblatt für die Republik Österreich; 380; 2014-12-25
BE	<ul style="list-style-type: none"> • Decree on administrative cooperation in the field of taxation - Flemish Project, Staatsblad; 2013-06-26 • Law of 17 August 2013 on transposition of Council Directive 2011/16/EU of 15 February 2011 on administrative cooperation in the field of taxation and repealing Directive 77/799/EEC - Federal Public Service of Finance, Staatsblad; 2013-09-03 • Ordinance of 26 July 2013 on the transposition of Council Directive 2011/16/EU of 15 February 2011 on administrative cooperation in the field of taxation and repealing Directive 77/799/EEC - Brussels Hoofdstedelijk gewest, Staatsblad; 256; 2013-09-03 • Decree of 5 May 2014 on administrative cooperation in the field of taxation - Ministry of the German-speaking Community, Staatsblad; 2014-07-18 • Décret du 19 septembre 2013 portant des dispositions fiscales diverses - Service Public de Wallonie, Moniteur Belge; 2013-10-11
BG	<ul style="list-style-type: none"> • Tax and Social Insurance Procedure Code, Държавен вестник; 82; 2012-10-26 • Tax and Social Insurance Procedure Code, Държавен вестник; 109; 2013-12-20
CY	<ul style="list-style-type: none"> • Law No 162(I)/2014 on Administrative Cooperation in the Field of Taxation (Amendment) Act of 2014, Cyprus Gazette; 4469; 2014-10-31
CZ	<ul style="list-style-type: none"> • Act No 164/2013 Coll. on international cooperation in the administration of taxes and amending other related acts; Sbirka Zakonu; 2013-06-21 • Decree No 74/2014 on the definition of types of income and assets for the purposes of automatic exchange of information in the context of international cooperation in the administration of taxes, Sbirka Zakonu; 2014-04-24
DE	<ul style="list-style-type: none"> • Act implementing the Mutual Assistance Directive and amending tax provisions (Mutual Assistance Implementation Act), Bundesgesetzblatt Teil; 32; 2013-06-29
DK	<ul style="list-style-type: none"> • Act No 118 of 7 February 2012 on mutual assistance for the recovery of claims relating to taxes, duties and other measures and administrative cooperation in the field of taxation, Lovtidende A, 2012-02-08
EE	<ul style="list-style-type: none"> • Tax Administration Law 1, Riigi Teataja; I, 2; 2011-12-13 • Tax Administration Law 1, Riigi Teataja; I, 3; 2011-12-13 • Tax Administration Law 1, Riigi Teataja; I, 11; 2014-12-15 • Tax Information Exchange Act; Riigi Teataja; I,15; 2016-08-01
EL	<ul style="list-style-type: none"> • Law No 4170/2013 on the incorporation of Directive 2011/16/EU, regulation of matters of the Agency EL.T.E., reform of the State Legal Council and other provisions, Εφημερίς της Κυβερνήσεως (Τεύχος Α); 163; 2013-07-12
ES	<ul style="list-style-type: none"> • Real Decreto No 1558/2012 de 15 de noviembre por el que se adaptan las normas de desarrollo de la Ley 58/2003 de 17 de diciembre General Tributaria a la normativa comunitaria e internacional en materia de asistencia mutua, se establecen obligaciones de información sobre bienes y derechos situados en el extranjero, y se modifica el reglamento de

MS	Measures Adopted
	procedimientos amistosos en materia de imposición directa, aprobado por Real Decreto 1794/2008 de 3 de noviembre, Boletín Oficial del Estado; 283; 2012-11-24
FI	<ul style="list-style-type: none"> Act on administrative cooperation in the field of taxation and repealing Directive 77/799/EEC implementation and application of the Directive (in particular Articles 5 and 7) - Office of the European Communities, Suomen Saadoskokoelma, 185; 2013-03-15
FR	<ul style="list-style-type: none"> Loi No 1978 du 28 décembre 2011 de finances rectificative pour 2011 - Article 59, Journal Officiel de la République Française; 2011-12-29 Loi No 1279 du 29 décembre 2013 de finances rectificative pour 2013, Journal Officiel de la République Française; 2013-12-30
HR	<ul style="list-style-type: none"> Act No 1836/2012 amending the General Tax Code, Narodne Novine; 78; 2012-07-13 Act No 2879/2012 amending the General Tax Code, Narodne Novine; 136; 2012-12-07 Act No 1454/2013 amending the General Tax Code, Narodne Novine; 136; 2013-06-18 Act No 1454/2015 amending the General Tax Code, Narodne Novine; 73; 2015-01-08 Rules on the automatic exchange of information in the tax area, Narodne Novine; 157; 2015—01-08
HU	<ul style="list-style-type: none"> Act XXXVII of 2013 on certain rules of international administrative cooperation in the field of tax and other public charges, Magyar Közlöny; 2013-04-18 Government Decree No 319/2013 amending Government Decree No 273/2010 on the organization of the National Tax and Customs Administration and the designation of certain bodies, Magyar Közlöny; 2013-08-28 Act LXXIV of 2014 amending certain tax laws and other related laws and Act CXXII of 2010 on the National Tax and Customs Administration, Magyar Közlöny; 2015-01-07
IE	<ul style="list-style-type: none"> Statutory Instrument No 549/2012, European Union (Administrative Cooperation in the field of taxation) Regulations 2012, Iris Oifigiúil, 2013-01-01
IT	<ul style="list-style-type: none"> Decreto Legislativo No 29 del 4 Marzo 2014 recante attuazione della direttiva 2011/16/UE relativa alla cooperazione amministrativa nel settore fiscale e che abroga la direttiva 77/799/CEE, Gazzetta Ufficiale della Repubblica Italiana; 63; 2014-03-17 Decreto del 29 Maggio 2014 recante recepimento della direttiva del Consiglio 2011/16/UE del 16 febbraio 2011, che designa l'ufficio centrale di collegamento e i servizi di collegamento ai fini dell'attività di cooperazione amministrativa nel settore fiscale, Gazzetta Ufficiale della Repubblica Italiana; 128; 2014-06-05
LT	<ul style="list-style-type: none"> Order No VA-114 of 18 December 2012 of the Head of the State Tax Inspectorate under the Ministry of Finance of the Republic of Lithuania on the Approval of the Rules on Mutual Assistance and Exchange of Taxation Information with the competent authorities of the Member States of the European Union, Valstybės žinios; 150; 2012-12-20
LU	<ul style="list-style-type: none"> Loi du 29 mars 2013 portant transposition de la directive 2011/16/UE du Conseil du 15 février 2011 relative à la coopération administrative dans le domaine fiscal et abrogeant la directive 77/799/CEE et portant 1) modification de la loi générale des impôts; 2) abrogation de la loi modifiée du 15 mars 1979 concernant l'assistance administrative internationale en matière d'impôts directs, Mémorial Luxembourgeois; 59; 2013-04-04 Loi du 26 mars 2014 portant transposition de l'article 8 de la directive 2011/16/UE du Conseil du 15 février 2011 relative à la coopération administrative dans le domaine fiscal et portant modification de la loi du 29 mars 2013 relative à la coopération administrative dans le domaine fiscal et de la loi modifiée du 4 décembre 1967 concernant l'impôt sur le revenu, Mémorial Luxembourgeois; 44; 2014-03-31 Règlement grand-ducal du 26 mars 2014 modifiant le règlement grand-ducal modifié du 6 novembre 2009 fixant l'organisation de l'administration des contributions directes, Mémorial Luxembourgeois; 44; 2014-03-31
LV	<ul style="list-style-type: none"> Cabinet Regulation No 1245 of 5 November 2013 on the procedure for exchanging information in the field of taxation between the competent authorities of Latvia and the competent authorities of other Member States of the European Union and foreign competent authorities with which international agreements have been concluded; Latvijas Vēstnesis; 218(5024); 2013-11-07
MT	<ul style="list-style-type: none"> Regulation on cooperation with other Jurisdictions on Tax Matters (Amendment), The Malta government gazette; 2012-12-21

MS	Measures Adopted
NL	<ul style="list-style-type: none"> Legislative proposal to implement Council Directive 2011/16/EU of 15 February 2011 on administrative cooperation in the field of taxation and repealing Directive 77/799/EEC, Staatsblad; 453; 2012-10-11
PL	<ul style="list-style-type: none"> Act of 30 August 2013 amending the Tax Code and the Treasury Control Act, Dziennik Ustaw; 1145; 2013-09-27 Regulation of the Minister for Finance of 3 October 2013 on the designation of a tax authority to forward requests for notification, Dziennik Ustaw; 1184; 2013-10-07 Regulation of the Minister for Finance of 3 October 2013 on the determination of the tax authority to provide information and requests for information, Dziennik Ustaw; 1194; 2013-10-08 Act No 1649 of 10 September 2015 amending the Tax Code and certain other acts, Dziennik Ustaw; 2015-10-20
PT	<ul style="list-style-type: none"> Decreto-Lei No 61/2013 Ato da uso da autorização legislativa concedida pela Lei No 66-B/2012 transpõe a Diretiva No 2011/16/UE do Conselho de 15 de fevereiro de 2011, relativa à cooperação administrativa no domínio da fiscalidade e que revoga a Diretiva No 77/799/CEE do Conselho de 19 de dezembro de 1977- Série I Ministério das Finanças, Diaro da Republica I; 90; 2013-05-10
RO	<ul style="list-style-type: none"> Order No 2/2012 amending and supplementing Government Order No 92/2003 on the Code of Fiscal Procedure, Monitorul Oficial al României; 71; 2012-01-30 Law approving Government Order No 2/2012 amending and supplementing Government Order No 92/2003 on the Code of Fiscal Procedure, Monitorul Oficial al României; 691; 2012-10-08
SE	<ul style="list-style-type: none"> Act amending the Act No 314/1990 on Mutual Administrative Assistance, Svensk författningssamling; 844; 2012-12-14 Act amending the Act No 181/2001 on the processing of information in the Tax Agency's taxation activities, Svensk författningssamling; 845; 2012-12-14 Act amending the Public Access to Information and Secrecy Act No 400/2009, Svensk författningssamling; 846; 2012-12-14 Act amending the Tax Procedures Act No 1244/2011, Svensk författningssamling; 847; 2012-12-14 Ordinance amending the Ordinance No 588/2001 on the processing of information in the Tax Agency's taxation activities, Svensk författningssamling; 849; 2012-12-14 Act amending the Public Access to Information and Secrecy Act No 765/2012, Svensk författningssamling; 850; 2012-12-14 Act on administrative cooperation within the European Union in relation to taxation; Svensk författningssamling; 843; 2014-12-08 Ordinance on administrative cooperation in the European Union in the field of taxation, Svensk författningssamling; 848; 2014-12-08
SI	<ul style="list-style-type: none"> Act amending the Tax Procedure, Uradni list; 94; 2012-12-10
SK	<ul style="list-style-type: none"> Act No 442/2012 Coll. on international assistance and cooperation for tax administration, Zbierka zákonov; 106; 2012-12-28
UK	<ul style="list-style-type: none"> European Administrative Co-Operation (Taxation) Regulations 2012, Her Majesty's Stationery Office; 3062; 2012-12-10 Regulations amending the Income Tax Act 2010, Gibraltar Gazette; 3977; 2013-01-17

E.3 National Measures Transposing DAC2 Provisions

MS	Measures Adopted
AT	<ul style="list-style-type: none"> Joint Reporting Standard Law - GMSG, Bundesgesetzblatt für die Republik Österreich; 116; 2015-08-14 2015 Tax Amendment Act - AbgÄG 2015, Bundesgesetzblatt für die Republik Österreich; 163; 2015-12-28 Order of the Federal Minister for Finance on the implementation of the Common Registration Standard Act - GMSG-DV, Bundesgesetzblatt für die Republik Österreich; 2015-12-21
BE	<ul style="list-style-type: none"> Decree of 23 November 2015 transposing Council Directive 2014/107/EU of 9 December 2014 amending Directive 2011/16/EU as regards mandatory automatic exchange of information in the field of taxation - Ministry of the German speaking Community; Belgisches Staatsblatt; 2015-12-30 Law of 16 December 2015 on disclosure of financial accounts information by the Belgian financial institutions and the Federal Department of Finance in the context of automatic exchange of information at international level and for tax purposes - Federal Public Service of Finance; Belgisch Staatsblad; 2015-12-31 Decree of 18 December 2015 laying down miscellaneous financial provisions; Belgisch Staatsblad, 2016-01-13 Ordonnance du 18 Fevrier 2016 modifiant l'ordonnance du 26 juillet 2013 transposant la Directive 2011/16/UE du Conseil du 15 février 2011 relative à la coopération administrative dans le domaine fiscal et abrogeant la Directive 77/799/CEE - Region de Bruxelles-Capitale; Moniteur Belge; 2016-01-13 Décret du 14 Avril 2016 modifiant le décret du 6 mai 1999 relatif à l'établissement, au recouvrement et au contentieux en matière de taxes régionales wallonnes en ce qui concerne l'échange automatique et obligatoire d'informations dans le domaine fiscal- Service Public de Wallonie; Moniteur Belge; 2016-04-22 Décret du 12 Janvier 2017 concernant la coopération administrative dans le domaine fiscal - Ministere de la Communauté Française; Moniteur Belge; 2017-02-22
BG	<ul style="list-style-type: none"> Act amending the tax and social insurance procedure code, Държавен вестник; 94; 2015-12-04
CY	<ul style="list-style-type: none"> Law No N. 60(I)/2016 on Administrative Cooperation in the Field of Taxation (Amendment) Act of 2016; The Cyprus Gazette; 2016-04-25
CZ	<ul style="list-style-type: none"> Act No 105/2016 amending certain acts in the field of international cooperation in the administration of taxes and repealing Act No 330/2014 on the exchange of financial account information with the United States of America for the purposes of tax administration, Sbirka Zakonu; 2016-04-06 Decree No 108/2016 on the determination of excluded accounts for the purposes of automatic exchange of information with another State in the framework of international cooperation in the administration of taxes, Sbirka Zakonu; 2016-04-06 Act No 92/2017 amending Act No 164/2013 Coll. on international cooperation in the administration of taxes and other related acts, as amended, and amending Act No 105/2016 amending certain acts in the field of international cooperation in the administration of taxes and repealing Act No Act No 330/2014 on the exchange of financial account information with the United States of America for the purposes of tax administration, Sbirka Zakonu; 2017-03-30 Act No 305/2017 amending Act No 164/2013 on international cooperation in the administration of taxes and amending other related acts, as amended, Sbirka Zakonu; 2017-09-19
DE	<ul style="list-style-type: none"> Act on the automatic exchange of financial account information in tax matters and on the amendment of other laws, Bundesgesetzblatt Teil; 55; 2015-12-30
DK	<ul style="list-style-type: none"> Order No 1361 of 20 November 2015 on identification and reporting of financial accounts relating to the rest of the world, Lovtidende A; 2015-11-20 Act No 1884 of 29 December 2015 amending the Tax Management Act, the Withholding Tax Act and Assessment Act, Labor Market Act, the Pension Tax Act, Lovtidende A; 2015-12-29
EE	<ul style="list-style-type: none"> Regulation on the term 'register of taxable persons' and the rules on the maintenance of the register, Elektrooniline Riigi Teataja; I, 11, 2016-02-12

MS	Measures Adopted
	<ul style="list-style-type: none"> • Law on the Code of Revenue to be exchanged for tax purposes, Riigi Teataja; I, 2; 2016-02-12 • Regulation on the statutes of the Tax and Customs Board, Riigi Teataja; I, 14; 2017-06-01 • Tax Information Exchange Act, Riigi Teataja; I, 24; 2017-07-06 • Taxation Act, Riigi Teataja; I,12; 2017-09-01
EL	<ul style="list-style-type: none"> • Law No 1133/2016 on the adaptation of the Greek legislation to the provisions of: Directives 2014/107/EU and (EU) 2015/2060, Directives 2014/86/EU and (EU) 2015/121, Directive 2013/61/EU and other provisions, Εφημερίς της Κυβερνήσεως (Τεύχος Α), 55; 2016-04-05 • Ministerial Decision No 1133/2017 on the list of entities and accounts that need to be treated as Non-Reporting Financial Institutions and Excluded Accounts for the years 2016 and 2017, in particular issues relating to compliance with the reporting and due diligence rules under the authorizations referred to in Article 9 (5) and point (7) (c) of law 4170/2013 and Article 5 paragraph 4, first and second subparagraphs, and paragraph 5 of law 4428/2016, Εφημερίς της Κυβερνήσεως (Τεύχος Β); 3035, 2017-09-04 • Ministerial Decision No 1140/2017 amending Act No 1130/2017 on the decision of the AAD Governor regarding the determination of the competent delegated authority of the Independent Public Revenue Authority and specifying the obligations of the Greek Financial Institutions' Declarants as to the time and manner of submission of the data and other matters concerning the automatic exchange information on financial accounts, Εφημερίς της Κυβερνήσεως (Τεύχος Β); 3254; 2017-09-15 • Ministerial Decision No 1137/2017 on the establishment of lists of declarable jurisdictions pursuant to the third paragraph of the fourth paragraph of Article 4 of Law 4428/2016 and the Participating Jurisdictions pursuant to the same Article and Article 9 (5) third subparagraph of Law 4170/2013, Εφημερίς της Κυβερνήσεως (Τεύχος Β); 3293; 2017-09-19
ES	<ul style="list-style-type: none"> • Ley 34/2015 de 21 de septiembre de modificación parcial de la Ley General Tributaria 58/2003 de 17 de diciembre, Boletín Oficial del Estado; 2015-09-22 • Real Decreto 1021/2015 de 13 de noviembre por el que se establece la obligación de identificar la residencia fiscal de las personas que ostenten la titularidad o el control de determinadas cuentas financieras y de informar acerca de las mismas en el ámbito de la asistencia mutua, Boletín Oficial del Estado; 275; 2015-11-17
FI	<ul style="list-style-type: none"> • Act on the national implementation of the provisions of the Council Directive on administrative cooperation in the field of taxation amending the Act on administrative cooperation in the field of taxation and repealing Directive 77/799/EEC, Suomen säädöskokoelma; 1703; 2015-12-31 • Act amending the Taxation Procedure Act, Suomen säädöskokoelma; 1704; 2015-12-31
FR	<ul style="list-style-type: none"> • Loi No 1786 du 29 décembre 2015 de finances rectificative pour 2015, Journal Officiel de la République Française; 2015-12-30 • Décret No 1683 du 5 décembre 2016 fixant les règles et procédures concernant l'échange automatique de renseignements relatifs aux comptes financiers, dites «norme commune de déclaration», Journal Officiel de la République Française; 2016-12-07 • Arrêté du 9 décembre 2016 précisant le décret No 1683 du 5 décembre 2016 fixant les règles et procédures concernant l'échange automatique de renseignements relatifs aux comptes financiers, dites «norme commune de déclaration», Journal Officiel de la République Française; 2016-12-23
HR	<ul style="list-style-type: none"> • Act No 1137/2017 amending the General Tax Code, Narodne Novine; 44; 31-05-2016 • Law No 2522/2017 on Administrative cooperation in the field of taxes, Narodne Novine; 115; 2017-03-29 • Regulation No 420/2017 on the automatic exchange of information in the tax area, Narodne Novine; 18; 2017-03-29
HU	<ul style="list-style-type: none"> • Act CXCVII of 2015 on certain rules for international administrative cooperation on tax and other charges amending Act XXXVII on Credit Institutions and Financial Enterprises of 2013 and certain Acts, Magyar Közlöny; 2016-02-11 • Act XIII of 2016 on the implementation of EU customs law, Magyar Közlöny; 2016-04-20
IE	<ul style="list-style-type: none"> • Finance Act No 609/2015 with the enclosure of Section 891G of the Taxes Consolidation Act 1997, Iris Oifigiúil; 2016-01-05 • Statutory Instrument No 609/ 2015 on Mandatory Automatic Exchange of Information in the Field of Taxation Regulations 2015, Iris Oifigiúil; 2016-01-06

MS	Measures Adopted
IT	<ul style="list-style-type: none"> Decreto di attuazione della legge 18 giugno 2015, No 95 e della direttiva 2014/107/UE del Consiglio del 9 dicembre 2014, recante modifica della direttiva 2011/16/UE per quanto riguarda lo scambio automatico obbligatorio di informazioni nel settore fiscale e Allegato D - elenco delle giurisdizioni partecipanti, Gazzetta Ufficiale della Repubblica Italiana; 303; 2015-12-31
LT	<ul style="list-style-type: none"> Government Resolution No 1017 of 23 September 2015 amending Council Directive 2011/16/EU of 15 February 2011 on administrative cooperation in the field of taxation and repealing Directive 77/799/EEC and the international treaties and arrangements of the Republic of Lithuania on the automatic exchange of financial account information, Teisės aktų registras; 14224; 2015-09-25 Order No 102 of the Head of the State Tax Inspectorate under the Ministry of Finance of 25 November 2015 approving the rules for the provision of information necessary for international cooperation obligations in relation to the automatic exchange of financial account information, Teisės aktų registras; 18712; 2015-11-25
LU	<ul style="list-style-type: none"> Loi du 18 décembre 2015 concernant l'échange automatique de renseignements relatifs aux comptes financiers en matière fiscale et portant transposition de la directive 2014/107/UE du Conseil du 9 décembre 2014 modifiant la directive 2011/16/UE en ce qui concerne l'échange automatique et obligatoire d'informations dans le domaine fiscal et modification de la loi modifiée du 29 mars 2013 relative à la coopération administrative dans le domaine fiscal, Mémorial Luxembourgeois A; 244; 2015-12-24
LV	<ul style="list-style-type: none"> Cabinet Regulation No 20 of 5 January 2016 on the procedure for the implementation by a financial institution of the due diligence procedures in respect of financial accounts and providing information on financial accounts to the State Revenue Service, Latvijas Vēstnesis; 9 (5581); 2016-01-14
MT	<ul style="list-style-type: none"> Regulation No 384/2015 on cooperation with Other Jurisdictions on Tax Matters (Amendment), 2015, The Malta government gazette; 19507; 2015-12-04
NL	<ul style="list-style-type: none"> Act of 23 December 2015 amending the Act on International Assistance in the levying of taxes and the Tax Act BES in connection with the implementation of Council Directive 2014/107/EU of 9 December 2014 amending Directive 2011/16/EU as regards mandatory automatic exchange of information in the field of taxation and to implement the developed by the OECD Common Reporting Standard; Staatsblad, 537, 2015-12-30
PL	<ul style="list-style-type: none"> Act No 648 of 9 March 2017 on exchange of tax information with other countries, Dziennik Ustaw; 2017-03-27
PT	<ul style="list-style-type: none"> Decreto-Lei No 64/2016, Finanças uso da autorização legislativa concedida pelos N.os 1, 2 e 3 do artigo 188 da Lei No 7-A/2016 de 30 de março, regula a troca automática de informações obrigatória no domínio da fiscalidade e prevê regras de comunicação e de diligência pelas instituições financeiras relativamente a contas financeiras, transpondo a Diretiva No 2014/107/UE do Conselho, de 9 de dezembro de 2014, que altera a Diretiva No 2011/16/UE, Diaro da Republica I; 195; 2016-10-11
RO	<ul style="list-style-type: none"> Law No 207/2015 on the Code of Fiscal Procedure, Monitorul Oficial al României; 547; 2015-07-23
SE	<ul style="list-style-type: none"> Act No 911/2015 on the identification of reportable accounts held with the automatic exchange of financial account information Svensk författningssamling; Svensk författningssamling; 2015-12-18 Act No 912/2015 on the automatic exchange of financial account information, Svensk författningssamling; 2015-12-18 Act No 918/2015 amending the Tax Procedures Act 1244/2011, Svensk författningssamling; 2015-12-18 Act No 919/2015 amending the Act No 843/2012 on administrative cooperation in the European Union in the field of taxation, Svensk författningssamling; 2015-12-18 Ordinance No 921/2015 on the identification of reportable accounts held with the automatic exchange of financial account information, Svensk författningssamling; 2015-12-18 Ordinance No 922/2015 on the automatic exchange of financial account information, Svensk författningssamling; 2015-12-18

MS	Measures Adopted
	<ul style="list-style-type: none"> • Ordinance No 923/2015 amending Ordinance 848/2012 on administrative cooperation in the European Union in the field of taxation, Svensk författningssamling; 2015-12-18 • Ordinance No 924/2015 amending the Tax Regulation No 1261/2011, Svensk författningssamling; 2015-12-18
SI	<ul style="list-style-type: none"> • Act No 3571/2015 amending the Tax Procedure; Uradni list; 91; 2015-11-30
SK	<ul style="list-style-type: none"> • Act No 359/2015 Coll. on automatic exchange of financial account information for tax administration purposes and amending certain acts, Zbierka zákonov; 98; 2015-12-09 • Decree of the Ministry of Finance of the Slovak Republic No 446/2015 Coll., laying down detailed verification of financial accounts reporting by financial institutions, Zbierka zákonov; 120; 2015-12-30
UK	<ul style="list-style-type: none"> • The International Tax Compliance Regulations No 878/2015, Her Majesty's Stationery Office; 2015-03-24 • International Co-operation (Improvement of International Tax Compliance) Regulations No 239/2015, Gibraltar Gazette; 4227; 2015-12-24

E.4 National Measures Transposing DAC3 Provisions

MS	Measures Adopted
AT	<ul style="list-style-type: none"> 2016 Tax Amendment Act - AbgÄG 2016, Bundesgesetzblatt für die Republik Österreich; 77; 2016-08-01
BE	<ul style="list-style-type: none"> Decree of 23 December 2016 laying down various tax provisions and provisions concerning the recovery of the non-fiscal debts, Belgisch Staatsblad; 2016-12-30 Decree of 15 December 2016 implementing Council Directive (EU) 2015/2376 of 8 December 2015 amending Directive 2011/16/EU as regards mandatory automatic exchange of information in the field of taxation - German-speaking Community, Belgisches Staatsblatt; 2017-01-04 Decision of 17 February 2017 of the Flemish Government amending the Order of the Flemish Government of 21 March 2014 on administrative cooperation in the field of taxation in order to transpose Directive (EU) 2015/2376 of 8 December 2015 - Flemish Project, Belgisch Staatsblad; 2017-03-14 Law of 31 July 2017 on the transposition of several Directives on the mandatory automatic exchange of information in the field of taxation - Federal Public Service of Finance, 2017-08-11 Décret du 12 Juillet 2017 modifiant le décret du 6 mai 1999 relatif à l'établissement, au recouvrement et au contentieux, en matière de taxes régionales wallonne - Service Public de Wallonie, Moniteur Belge; 2017-08-22 Ordonnance du 14 décembre 2017 modifiant l'ordonnance du 26 juillet 2013 transposant la Directive 2011/16/UE du Conseil du 15 février 2011 relative à la coopération administrative dans le domaine fiscal, abrogeant la Directive 77/799/CEE et modifiant l'article 40, § 1er, de l'ordonnance du 12 décembre 2016 portant la deuxième partie de la réforme fiscale, Moniteur Belge; 4; 2018-01-05 Décret du 20 Décembre 2017 modifiant le décret du 12 janvier 2017 concernant la coopération administrative dans le domaine fiscal - Ministère de la Communauté Française, Moniteur Belge; 2018-01-26
BG	<ul style="list-style-type: none"> Act amending the tax and social insurance procedure code, Държавен вестник; 63; 2017-08-04
CY	<ul style="list-style-type: none"> Law No 98(I)/2017 on Administrative Cooperation in the Field of Taxation (Amendment) Act of 2017, Cyprus Gazette; 4612; 2017-07-14
CZ	<ul style="list-style-type: none"> Act No 92/2017 amending Act No 164/2013 Coll. on international cooperation in the administration of taxes and amending other related acts, as amended, and Act No Act No 105/2016 amending certain acts in the field of international cooperation in the administration of taxes and repealing Act No Act No 330/2014 on the exchange of financial account information with the United States of America for the purposes of tax administration, Sbirka Zakonu; 2017-03-30
DE	<ul style="list-style-type: none"> Law implementing the amendments of the EU Mutual Assistance Directive and of further measures to be taken against reductions and withdrawals, Bundesgesetzblatt Teil 1; 63; 2016-12-23
DK	<ul style="list-style-type: none"> Law No 1554- Section 7 of 13 December 2016 amending The Chocolate Tax Act, the Tax Assessment Act, the Tax Management Act and various other acts, Lovtidende A; 2016-12-14
EE	<ul style="list-style-type: none"> Tax Information Exchange Act, Riigi Teataja; I, 2; 2017-04-01 Regulation on the statutes of the Tax and Customs Board, Riigi Teataja; I, 14; 2017-06-01 Tax Information Exchange Act, Riigi Teataja, I, 24; 2017-07-06 Taxation Act, Riigi Teataja; I, 12; 2017-09-01
EL	<ul style="list-style-type: none"> Law No. 4474/2017 on the adaptation of the Greek legislation to the provisions of Directive (EU) 2015/2376 and other provisions, Εφημερίς της Κυβερνήσεως (Τεύχος Α); 80; 2017-06-07
ES	<ul style="list-style-type: none"> Real Decreto 1070/2017 de 29 de diciembre por el que se modifican el Reglamento General de las actuaciones y los procedimientos de gestión e inspección tributaria y de desarrollo de las normas comunes de los procedimientos de aplicación de los tributos, aprobado por el Real Decreto 1065/2007 de 27 de julio y el Real Decreto 1676/2009 de 13 de noviembre, por el

MS	Measures Adopted
	que se regula el Consejo para la Defensa del Contribuyente, Boletín Oficial del Estado; 317; 2017-12-30
FI	<ul style="list-style-type: none"> • Law No 1488/2016 amending the law on the national implementation of the provisions of the legislative area of Council Directive on administrative cooperation in the field of taxation and repealing Directive 77/799/EEC and on the application of the Directive 1488/2016, Suomen säädöskokoelma; 2016-12-30
FR	<ul style="list-style-type: none"> • Code des procédures fiscales (extrait du Livre des procédures fiscales) Articles L. 114 et 114 A, Journal Officiel de la République Française; 303; 2017-01-10
HR	<ul style="list-style-type: none"> • Law No 2522/2016 on administrative cooperation in the field of taxes; Narodne Novine; 115; 2016-12-21
HU	<ul style="list-style-type: none"> • Act LXVI of 2016 amending specific tax acts, other acts relating to them and Act CXXII of 2010 on the National Tax and Customs Administration, Magyar Közlöny; 2016-07-15 • Act CXXV of 2016 amending certain tax laws and other related acts, Magyar Közlöny; 2017-01-20
IE	<ul style="list-style-type: none"> • Statutory Instrument No 619/2016 European Union (Administrative Cooperation in the Field of Taxation) (Amendment) Regulations 2016; 2017-01-10
IT	<ul style="list-style-type: none"> • Decreto Legislativo del 15 marzo 2017 No 32 recante attuazione della direttiva (UE) 2015/2376 e recante modifica della direttiva 2011/16/UE per quanto riguarda lo scambio automatico obbligatorio di informazioni nel settore fiscale; Gazzetta Ufficiale della Repubblica Italiana; 69; 2017-03-23
LT	<ul style="list-style-type: none"> • Order No VA-124/2016 of the Head of the State Tax Inspectorate under the Ministry of Finance of 5 October 2016 amending Order No VA-114 of the Head of the State Tax Inspectorate under the Ministry of Finance of the Republic of Lithuania of 18 December 2012 on the approval of the Rules on Mutual Assistance and Exchange of Taxation Information with the competent authorities of the Member States of the European Union, Teisės aktų registras; 24627; 2016-10-06
LU	<ul style="list-style-type: none"> • Loi du 23 juillet 2016 portant transposition de la directive (UE) 2015/2376 du Conseil du 8 décembre 2015 modifiant la directive 2011/16/UE en ce qui concerne l'échange automatique et obligatoire d'informations dans le domaine fiscal et portant modification de la loi modifiée du 29 mars 2013 relative à la coopération administrative dans le domaine fiscal, Mémorial Luxembourgeois A; 139; 2016-07-28
LV	<ul style="list-style-type: none"> • Cabinet Regulation No 864 of 20 December 2016 on the procedures for exchanging information in the field of taxation between the competent authorities of Latvia and the competent authorities of other Member States of the European Union and foreign competent authorities with which international agreements have been concluded between the competent authorities of Latvia and the other Member States of the European Union, Latvijas Vēstnesis; 251; 2016-12-23
MT	<ul style="list-style-type: none"> • Regulation No 400/2015 on cooperation with Other Jurisdictions on Tax Matters (Amendment), 2016, The Malta government gazette; 2015-11-25
NL	<ul style="list-style-type: none"> • Amendment of the Law on international assistance in the levying of taxes in connection with the automatic exchange of information on advance cross-border rulings and advance pricing arrangements, Staatsblad; 543; 2016-12-29
PL	<ul style="list-style-type: none"> • Act No 648 of 9 March 2017 on exchange of tax information with other countries, Dziennik Ustaw; 2017-03-27
PT	<ul style="list-style-type: none"> • Lei 98/2017 de 24 de agosto, que regula a troca automática de informações obrigatória relativa a decisões fiscais prévias transfronteiriças e a acordos prévios sobre preços de transferência e no domínio da fiscalidade, transpondo as Diretivas (UE) 2015/2376, do Conselho, de 8 de dezembro de 2015, e (UE) 2016/881, do Conselho, de 25 de maio de 2016, e procedendo à alteração de diversos diplomas Diário da República; I, 163; 2017-08-24
RO	<ul style="list-style-type: none"> • Emergency ordinance No 84/2016 amending certain legislative acts in the field of financial-fiscal, Monitorul Oficial al României; 977; 2016-12-06

MS	Measures Adopted
SE	<ul style="list-style-type: none"> • Act No 1229/2016 amending the Act No 843/2012 on administrative cooperation in the European Union in the field of taxation, Svensk författningssamling, 2016-12-16 • Ordinance No 1230/2016 amending Ordinance No 848/2012 on administrative cooperation in the European Union in the field of taxation, Svensk författningssamling; 2016-12-16
SI	<ul style="list-style-type: none"> • Act No 2685/2016 amending the Tax Procedure, Uradni list; 63; 2016-10-07
SK	<ul style="list-style-type: none"> • Act No 300/2016 Coll., amending Act No Act No 442/2012 on international aid and cooperation for tax administration, as amended by Act No Act No 359/2015 amending Act No 359/2015 Coll. on automatic exchange of financial account information for tax administration purposes and amending certain acts, Zbierka zákonov; 2016-11-15
UK	<ul style="list-style-type: none"> • The International Tax Compliance Regulations No 878/2015, Her Majesty's Stationery Office; 2015-03-24 • Regulations No 246/2016 amending the Income Tax Act 2010, Gibraltar Gazette; 2016-12-15 • Second Supplement to the Gibraltar Gazette No 4323, Regulation, Gibraltar Gazette; 4325; 2016-12-15

E.5 National Measures Transposing DAC4 Provisions

MS	Measures Adopted
AT	<ul style="list-style-type: none"> 2016 Tax Amendment Act - EU AbgÄG 2016, Bundesgesetzblatt für die Republik Österreich; 77; 2016-08-01
BE	<ul style="list-style-type: none"> Loi-programme of 1 July 2016 of the Federal State service office of the first minister, Belgisch Staatsblad; 2016-07-04 Royal Decree of 28 October 2016 of the Federal State Service Finance establishing the model form referred to in Article 321/2 (5) of the Income Tax Code 1992, Belgisch Staatsblad; 2016-12-02 Royal Decree of 28 October 2016 of the Federal State Service Finance establishing the model form referred to in Article 321/4 § 4 of the Income Tax Code 1992, Belgisch Staatsblad; 2016-12-02 Royal Decree of 28 October 2016 of the Federal State Service Finance establishing the model form referred to in Article 321/5 § 4 of the Income Tax Code 1992, Belgisch Staatsblad; 2016-12-02 Act of 31 July 2017 of the Federal Public Service Finance transposing several Directives on mandatory automatic exchange of information in the field of taxation, Belgisch Staatsblad; 2017-08-11
BG	<ul style="list-style-type: none"> Act amending the tax and social insurance procedure code, Държавен вестник; 63; 2017-08-04
CY	<ul style="list-style-type: none"> Law on Administrative Cooperation in the Field of Taxation (Amendment) Act of 2018, Cyprus Gazette; 4650; 2018-04-27
CZ	<ul style="list-style-type: none"> Act No. 92/2017 amending Act No. 164/2013 on international cooperation in the administration of taxes and amending other relevant acts, as amended, and Act No. 105/2016 amending certain acts in the field of international cooperation in the administration of taxes and repealing Law No. 330/2014 on the exchange of financial account information with the United States of America for tax administration purposes, Sbirka Zakonu; 2017-03-30 Act No. 170/2017 amending certain laws in the field of taxation, Sbirka Zakonu; 2017-06-16 Act No. 305/2017 amending Act No. 164/2013 on international cooperation in the administration of taxes and amending other related acts, as amended, Sbirka Zakonu; 2017-09-19 Decree No. 306/2017 on the template of the country report and instructions to be filled in for the automatic exchange of information with another State in the context of international cooperation in the administration of taxes, Sbirka Zakonu; 2017-09-19
DE	<ul style="list-style-type: none"> Law implementing the amendments of the EU Mutual Assistance Directive and of further measures to be taken against reductions and withdrawals, Bundesgesetzblatt Teil 1; 63; 2016-12-23
DK	<ul style="list-style-type: none"> Law No. 1554 – Article 7 amending the Chocolate Tax Act, the Tax Assessment Act, the Tax Management Act and various other acts, Lovtidende A; 2016-12-14
EE	<ul style="list-style-type: none"> Tax Information Exchange Act, Riigi Teataja; I, 2; 2017-04-01 Regulation on the statutes of the Tax and Customs Board, Riigi Teataja; I,14; 2017-06-01 Tax Information Exchange Act, Riigi Teataja; I, 24; 2017-07-06 Taxation Act, Riigi Teataja; I, 12; 2017-09-01 Act on form and establishment of the declaration pursuant to the Tax Information Exchange Act, Riigi Teataja; I, 12; 2017-12-18
EL	<ul style="list-style-type: none"> Law on the adaptation of Greek legislation to the provisions of Directive 2016/881 and other provisions, Εφημερίς της Κυβερνήσεως (Τεύχος Α); 110; 2017-08-01
ES	<ul style="list-style-type: none"> Orden No. 1978/2016, de 28 de diciembre, por la que se aprueba el modelo 231 de Declaración de información país por país, Boletín Oficial del Estado; 315; 2016-12-30
FI	<ul style="list-style-type: none"> Act No. 14488/2016 on the implementation at national level of the provisions of the Council Directive on administrative cooperation in the field of taxation, repealing Directive 77/799/EEC and amending the law implementing the Directive, Suomen säädöskokoelma; 2016-12-30 Act No. 1489/2016 amending the Tax Procedure Act, Suomen säädöskokoelma; 2016-12-30

MS	Measures Adopted
	<ul style="list-style-type: none"> Act No. 205/2018 amending Section 14d of the Taxation Procedure Act, Suomen s�ad�oskokoelma; 2018-04-10
FR	<ul style="list-style-type: none"> D�cret No. 1288/2016 du 29 septembre 2016 pris pour l'application de l'article 223 quinquies C du code g�n�ral des imp�ts, Journal Officiel de la R�publique Fran�aise; 2016-10-01
HR	<ul style="list-style-type: none"> Law on Administrative Cooperation in the Field of Taxation, Narodne Novine; 115; 2016-12-06 Ordinance on automatic exchange of information in the field of taxation, Narodne Novine; 18; 2017-03-01
HU	<ul style="list-style-type: none"> Act XL of 2017 amending Act XXXVII of 2013 on certain rules of international administrative cooperation in tax and other public charges, Magyar K�znl�ny; 2017-05-31
IE	<ul style="list-style-type: none"> Finance Act 2016 section 24 amending Section 891H of the Taxes Consolidation Act 1997, Iris Oifigi�l; 2016-12-23 European Union Administrative Cooperation in the Field of Taxation (Amendment) Regulations 2016, Iris Oifigi�l; 2016-12-23 Taxes (Country-by-Country Reporting) Regulations 2016, Iris Oifigi�l; 2017-01-06
IT	<ul style="list-style-type: none"> Decreto del Ministro dell'economia e delle finanze del 23 Febbraio 2017 di attuazione dell'articolo 1, commi 145 e 146 della legge 28/12/2015 n. 208 e della direttiva 2016/881/UE del Consiglio, del 25 maggio 2016, recante modifica della direttiva 2011/16/UE, per quanto riguarda lo scambio automatico obbligatorio di informazioni nel settore fiscale, Gazzetta Ufficiale della Repubblica Italiana; 56; 2017-03-08
LT	<ul style="list-style-type: none"> Law No. XIII-374 amending the Lithuanian Law on tax administration No. IX-2112 and its Annex, Teis�s akt� registras; 9154; 2017-05-30 Law No. XIII-375 amending Article 187 of the Administrative Irregularities Code, Teis�s akt� registras; 9155; 2017-05-30 Order No. VA-47 of 31 May 2017 of the Head of the State Tax Inspectorate under the Ministry of Finance of the Republic of Lithuania on the Approval of the Rules for Submission of Information necessary for the implementation of international reporting obligations for cooperation on the exchange of information on reports submitted by multinational enterprise groups, Teis�s akt� registras; 9216; 2017-05-31
LU	<ul style="list-style-type: none"> Loi du 23 d�cembre 2016 portant transposition de la directive 2016/881 du Conseil du 25 mai 2016 modifiant la directive 2011/16/UE en ce qui concerne l'�change automatique et obligatoire d'informations dans le domaine fiscal et concernant les r�gles de d�claration pays par pays pour les groupes d'entreprises multinationales, M�morial Luxembourgeois A; 280; 2016-12-27
LV	<ul style="list-style-type: none"> Cabinet Regulation No. 397 of 4 July 2017 on the country-by-country report of the MNE Group, Latvijas V�stnesis; 138; 2017-07-13
MT	<ul style="list-style-type: none"> Cooperation with Other Jurisdictions on Tax Matters (Amendment) Regulations 2016, the Malta government gazette; 19,686; 2016-11-25
NL	<ul style="list-style-type: none"> Law of 29 May 2017 amending the International Assistance in the Taxation of Taxes Act and the Corporate Tax Act 1969 laying down additional rules on the automatic exchange of information on country-by-country reports, Staatsblad; 215; 2017-06-02
PL	<ul style="list-style-type: none"> Act of 9 March 2017 on Tax Information Exchange with other countries, Dziennik Ustaw; 648; 2017-03-27 Regulation of the Minister for Development and Finance of 13 June 2017 on the detailed scope of data to be provided in relation to the information about a group of entities and how to fulfill it, Dziennik Ustaw; 1176; 2017-06-21
PT	<ul style="list-style-type: none"> Lei 98/2017 de 24 de agosto, que regula a troca autom�tica de informa��es obrigat�ria relativa a decis�es fiscais pr�vias transfronteiri�as e a acordos pr�vios sobre pre�os de transfer�ncia e no dom�nio da fiscalidade, transpondo as Diretivas (UE) 2015/2376, do Conselho, de 8 de dezembro de 2015, e (UE) 2016/881, do Conselho, de 25 de maio de 2016, e procedendo � altera��o de diversos diplomas, Diaro da Republica; I, 163; 2017-08-24

MS	Measures Adopted
RO	<ul style="list-style-type: none"> Emergency Order No. 42/2017 amending and supplementing Law No. 207/2015 on the Code of Fiscal Procedure, Monitorul Oficial al României; 438; 2017-06-13
SE	<ul style="list-style-type: none"> Act No. 182/2017 on automatic exchange of country-by-country reports in the field of taxation, Svensk författningssamling; 2017-03-02 Act No. 185/2017 amending the Tax Procedures Act 1244/2011, Svensk författningssamling; 2017-03-02 Ordinance No. 186/2017 on the automatic exchange of country-by-country reports in the field of taxation, Svensk författningssamling; 2017-03-02 Ordinance No. 188/2017 amending the Tax Procedures Regulation No. 1261/2011, Svensk författningssamling; 2017-03-02
SI	<ul style="list-style-type: none"> Act amending the Tax Procedure Act, Uradni list; 63; 2016-07-10
SK	<ul style="list-style-type: none"> Act No. 300/2016 amending Act No. 442/2012 on international assistance and cooperation in tax administration and amending Act No. 359/2015 on the automatic exchange of financial account information for tax administration purposes and amending certain acts, Zbierka zákonov; 2016-11-15 Act No. 43/2017 amending Act No. 442/2012 on international assistance and cooperation in tax administration, Zbierka zákonov; 2017-02-27
UK	<ul style="list-style-type: none"> The Taxes (Base Erosion and Profit Shifting) (Country-by-Country Reporting) (Amendment) Regulations No. 497/2017; Her Majesty's Stationery Office; 2017-03-30 Income Tax Act 2010 (Amendment) Regulations 2017, Interpretation and General Clauses Act, Gibraltar Gazette; 101; 2017-05-25

E.6 National Measures Transposing DAC5 Provisions

MS	Measures Adopted
AT	<ul style="list-style-type: none"> Federal Act amending a federal law on the establishment of a register of beneficial owners of companies, other legal persons and trusts (the Act on Financial Markets for Enterprises) and the Financial Market Money Laundering Act, the Financial Crime Act, the Notariate Code, the Law on Foreign Exchange, the Banking Act, the Federal Tax Code, the Financial Market Surveillance Authority, Bundesgesetzblatt für die Republik Österreich; 136; 2017-09-15
BE	<ul style="list-style-type: none"> Act of 26 March 2018 of the Federal Public Service Chancellery of the Prime Minister on strengthening economic growth and social cohesion, Belgisch Staatsblad; 2018-03-30
BG	<ul style="list-style-type: none"> Act amending the Tax and Social Security Procedure Code, Държавен вестник; 27; 2018-03-27
CY	<ul style="list-style-type: none"> The Administrative Cooperation in the Field of Taxation (Amendment) Law, Cyprus Gazette; 4669; 2018-07-30
CZ	<ul style="list-style-type: none"> Act No. 94/2018 amending Act No. 280/2009, Tax Code, as amended, and other related acts, Sbirka Zakonu; 2018-06-05
DE	<ul style="list-style-type: none"> Act on the Implementation of the Fourth EU Anti-Money Laundering Directive, the implementation of the EU Funds Transfer Regulation and the reorganization of the central office for financial transaction investigations, Bundesgesetzblatt Teil 1; 39; 2017-06-24
DK	<ul style="list-style-type: none"> Act amending the Taxation of Capital Gains on Sale of Shares Act, Source Tax Act, Tax Management Act and various other Acts, Lovtidende A; 1555; 2017-12-20
EE	<ul style="list-style-type: none"> Statutes of the Tax and Customs Board, Riigi Teataja; I, 14; 2017-06-01 Tax Information Exchange Act, Riigi Teataja; I, 24; 2017-07-06 Taxation Act, Riigi Teataja; I, 12; 2017-09-01 Money Laundering and Terrorist Financing Prevention Act, Riigi Teataja; I, 2; 2017-11-27
EL	<ul style="list-style-type: none"> Law adapting the Greek legislation on the provisions of Directive (EU) 2016/2258 and other provisions, Εφημερίς της Κυβερνήσεως (Τεύχος Α); 179; 2018-10-11
ES	<ul style="list-style-type: none"> Resolución de 19 de enero de 2017, de la Dirección General de la Agencia Estatal de Administración Tributaria, por la que se aprueban las directrices generales del Plan Anual de Control Tributario y Aduanero de 2017, Boletín Oficial del Estado; 23; 2017-01-27
FI	<ul style="list-style-type: none"> Law amending the Taxation Procedure Act, Section 23 (a), Suomen säädöskokoelma; 1127; 2017-12-30 Act amending section 18 (1) (12) and section 20 (8) of the Act on the Openness and Disclosure of Tax Information and Article 18 (1) of the Act on the Openness of Government Activities, Suomen säädöskokoelma; 1128; 2017-12-30
FR	<ul style="list-style-type: none"> Loi No. 1837/2017 (Article 109) du 30 décembre 2017 de finances pour 2018, Journal Officiel de la République Française; 2017-12-31
HR	<ul style="list-style-type: none"> Act amending the Act on Administrative Cooperation in the Field of Taxation, Narodne Novine; 130; 2017-12-20
HU	<ul style="list-style-type: none"> Act CLIX of 2017 amending acts relating to the entry into force of the General Administrative Procedures Act and certain other acts, Magyar Közlöny; 201; 2017-11-23
IE	<ul style="list-style-type: none"> European Union Administrative Cooperation in the Field of Taxation (Amendment) Regulations 2017, Iris Oifigiúl; 3; 2018-01-09
IT	<ul style="list-style-type: none"> Decreto legislativo No. 60 del 18 Maggio 2018 di attuazione della direttiva 2016/2258/UE del Consiglio, del 6-12-2016, recante modifica della direttiva 2011/16/UE del Consiglio, del 15-2-2011, per quanto riguarda l'accesso da parte delle autorità fiscali alle informazioni in materia di antiriciclaggio, Gazzetta Ufficiale della Repubblica Italiana; 128; 2018-06-05
LT	<ul style="list-style-type: none"> Law Of the Republic of Lithuania on Prevention of Money Laundering and Terrorist Financing VIII-275, amending Law 2, 15 and 25 XIII-1440, Valstybės žinios, 2018-10-03

MS	Measures Adopted
LU	<ul style="list-style-type: none"> Loi du 1er août 2018 portant transposition de la directive (UE) 2016/2258 du Conseil du 6 décembre 2016 modifiant la directive 2011/16/UE en ce qui concerne l'accès des autorités fiscales aux informations relatives à la lutte contre le blanchiment de capitaux et modifiant la loi modifiée du 29 mars 2013 relative à la coopération administrative dans le domaine fiscal, la loi du 18 décembre 2015 relative à la Norme commune de déclaration et la loi du 23 décembre 2016 relative à la déclaration pays par pays, Journal officiel du Grand-Duché de Luxembourg – Mémorial A; 651; 2018-08-06
LV	<ul style="list-style-type: none"> Act on amendments to the Law on taxes and duties, Latvijas Vēstnesis; 236; 2017-11-29
MT	<ul style="list-style-type: none"> Cooperation with Other Jurisdictions on Tax Matters (Amendment) Regulations 2017, the Malta government gazette; 19,915; 2017-12-06
NL	<ul style="list-style-type: none"> Law amending the Act on International Assistance in the levying of Taxes on the Implementation of Council Directive (EU) 2016/2258 of 6 December 2016 amending Directive 2011/16/EU as regards access to anti-money-laundering information by tax authorities, Staatsblad; 473, 2017-12-13
PL	<ul style="list-style-type: none"> Act of 1 March 2018 on Anti-money Laundering and Combating the Financing of Terrorism, Dziennik Ustaw; 2018-04-12
PT	<ul style="list-style-type: none"> Lei No. 83/2017, de 18 de agosto que estabelece medidas de combate ao branqueamento de capitais e ao financiamento do terrorismo, transpõe parcialmente as Diretivas 2015/849/UE, do Parlamento Europeu e do Conselho, de 20 de maio de 2015, e 2016/2258/UE, do Conselho, de 6 de dezembro de 2016, altera o Código Penal e o Código da Propriedade Industrial e revoga a Lei No. 25/2008, de 5 de junho, e o Decreto-Lei No. 125/2008, de 21 de julho, Diário da República I;159; 2017-08-18
RO	<ul style="list-style-type: none"> Emergency Ordinance No 114/2018 on the imposition of measures in the field of public investment and fiscal measures, amending and supplementing legislative acts and the extension of time limits; Monitorul Oficial al României; 1116; 2018-12-29
SE	<ul style="list-style-type: none"> Law No. 631/2017 on the registration of beneficial owners, Svensk författningssamling; 2017-06-22 Regulation No. 667/2017 on the registration of beneficial owners applying law No. 631/2017, Svensk författningssamling; 2017-06-22
SI	<ul style="list-style-type: none"> Act amending the Tax Procedure Act, Uradni list; 69; 2017-12-08
SK	<ul style="list-style-type: none"> Act No. 267/2017 amending Act No. 563/2009 on tax administration (the Tax Code) and amending certain acts, as amended, and certain other acts, Zbierka zákonov; 2017-11-10
UK	<ul style="list-style-type: none"> The Money Laundering, Terrorist Financing and Transfer of Funds (Information on the Payer) Regulations 2017, Her Majesty's Stationery Office; 2017-06-26 Income Tax Act 2010 (Amendment No. 2) Regulations 2017, Gibraltar Gazette; 4424; 2017-12-21

ANNEX F - AEOI DAC1 EXCHANGES BY CATEGORY OF INCOMES/ASSETS

F.1 Introduction

This Annex includes a detailed overview of the information available in the AEOI Statistics on the exchanges occurred under AEOI DAC1 for the five income/asset categories covered by this provision. The main elements (number of taxpayers and amount concerned, identification elements associated with taxpayer positions) were analysed in Section 4 of the Main Text. Nonetheless, the AEOI Statistics include a wealth of information, including a disaggregation of the overall amount concerned by type of income (e.g. wage vs allowances) or type of event (e.g. payment of pension vs contribution to the pension fund), as well as information on the entity of origin of the income ('payer'). Furthermore, for each type of income covered by the exchanges, some more elements concerning geographical patterns are provided.

F.2 Income from Employment

In message year 2016, **the exchange of information on EI has concerned over 2 million of EU tax residents, and some € 34 billion, for an average amount per taxpayer of some € 16,400.** The main component of the overall net amount are wages, amounting to some € 35 billion (resulting from the difference between a gross amount of € 32.7 billion and € 2.4 billion for income taxes paid in the reporting country). Another € 820 million concern various types of allowances and benefits, while for another € 530 million the specific type of income is not specified. Less than 0.1% of the amount concerns independent workers, while over 65% of the overall amount (and over 67%, if only wages are considered) concerns dependents, and no indication on the type of relationship is provided for the remaining 35%.

The exchange of information has concerned 5.8 million³¹⁵ of 'payers' over the two and a half years covered by the exchanges, i.e. companies or employers in general employing tax residents of other Member States. The distribution of payers is only partly overlapping with the overall geographical pattern of the exchanges. In fact, over 1.2 million payers, or 20% of the total, are based in Germany, another 970,000 (one sixth of the total) are based in Italy, and another 900,000, or 15% of the total, are Dutch companies. The average amount exchanged per company changes substantially from country to country, with higher values in countries that mainly engage in exchanges of information with neighbouring countries. This is the case of Denmark (for which 60% of the overall amount is sent to Sweden) and Czech Republic (which sends three fourth of the information to Slovakia, Germany, and Poland alone).

Exchanges of income from employment information are fairly concentrated and consistent with intra-EU transboundary movement and migration patterns. In message year 2016, the four main sending countries in terms of number of taxpayers were Germany (traditionally a magnet for migrants across continental Europe and also featuring intense cross border exchanges with France), the Netherlands (with a sizeable proportion of foreign workers, especially in horticulture), Luxembourg (where foreign workers account for 70% of workforce) and Italy (with a strong presence of Romanian workers, mostly in construction). Cumulatively, these sending countries reported information concerning 1.2 million taxpayers and income worth some 18.6 billion (i.e. about 58% of the total in terms of taxpayers and 55% in terms of income). The four main receiving countries were Poland (getting information primarily from the Netherlands and Germany), France (mostly receiving from Luxemburg, Belgium and Germany), Romania (primarily receiving from Italy and Germany) and Germany (receiving mostly from Luxemburg, Netherlands and France). These four countries received information about 1.15 million taxpayers with incomes worth some € 18 billion (i.e. 56% of the total in terms of taxpayers and 53% in terms of income).

³¹⁵ The figure refers to the total number of payers covered by the messages included in the databases. This figure is most likely to include replicates, as it is expected that in many cases the same taxpayer would receive income from employment from the same payer for more years in a row. Unfortunately, the query IES_120, which tracks the information from the perspective of the payers, does not include information on the message date, which prevents the disaggregation of information by message year.

There are significant variations in the average value of incomes reported by various Member States, which reflect the existence of significant differences in labour market conditions and/or in the profile of the workers involved. In the case of exchanges among Benelux countries, Germany and France, the average value of the income reported was marginally above € 25,000 (i.e. almost 60% higher than the general average of € 16,000 for EI exchanges), clearly suggesting that EI information exchanges concern relatively well paid workers. Similar considerations apply to the incomes reported by the UK to West European countries (which typically range between € 30,000 and € 50,000) and, especially, to exchanges among Denmark and Sweden (averaging at € 53,000). In contrast, the incomes reported to Poland and Romania averaged at a mere € 7,600 and € 6,500 respectively, indicating the predominance of manual workers in low paid jobs, possibly working on seasonal/short term contracts.

F.3 Director's Fees

The pattern of information exchange on DF is extremely influenced by the fact that only 16 countries have sent messages concerning this category of income over the two and a half years for which statistics are available. **Three fourths of the recipients and of the amount concerned relate to information sent by two countries only, i.e. Luxembourg and the Netherlands**, while the information they receive cumulatively accounts for only 3% of taxpayers and of the overall amount. All top five bilateral exchanges originate from these two countries, and 85% of payers for which information is available are located there as well. Belgium is the top recipient of information, accounting for one fourth of overall taxpayers concerned by DF information, and some 35% of the overall amount. Germany and France are respectively a far second and third ranking. Among the top 10 bilateral flows, the only one not originating from either Luxembourg or the Netherlands is the information sent from Ireland to the UK.

F.4 Pensions

In message year 2016 alone, **PEN-related exchanges concerned some 4.2 million pensioners, accounting for over half of the total number of taxpayers interested by DAC1 AEOI in that year**. Its importance is remarkably lower in terms of amounts: with an overall amount of pension payments of € 15.8 billion in message year 2016 (corresponding to some € 3,700 per pensioner), PEN exchanges represent about 30% of the overall exchanges in that year, and the share decreases to about one quarter when the whole 2015-mid 2017 period is considered. Besides the overall amount of pension payments, message year 2016 exchanges have also concerned some € 2.7 billion of contribution to pension funds, some € 58 million of taxes paid in the sending countries, and information on the capital value of pension funds for some € 27 million. Overall, the exchange of information has concerned some 8.9 million of 'payers' of pension incomes.³¹⁶ In principle, statistics also include information on: (i) the nature of the pension scheme (i.e. whether it is a social security scheme, an occupational benefit scheme, etc.); (ii) the kind of scheme (e.g. retirement, disability, war, dependents, etc.); and (iii) the type of scheme (whether it is based on defined contribution, on defined benefits, or a mix). However, only few Member States provide information with such level of detail, while most of them classify the schemes as 'unknown' or 'unfilled', which prevents any meaningful consideration.

Unsurprisingly, **the geographical pattern of PEN exchanges is highly related to past migration flows**. In message year 2016, Germany and France, the two classical destination countries of intra-EU migration during the 1960s and 1970s, were by far the largest sending

³¹⁶ It should be noted that the identification of payers does not seem completely consistent among countries. Messages originating from Germany alone have concerned some 3.9 million payers, or 43% of the total number of payers over the three years, and another 1.9 million came from the messages sent by France. The query including information on payers does not include the number of recipients, but it does include a reference to the number of pension schemes, which seems to be a good proxy of the former (in another query it can be seen that the two are extremely close). On average, each payer seems to be connected to just one pension scheme, and the average amount of payment per payer is about € 4,000. Only smaller countries, such as Denmark, Bulgaria and Latvia, have an average number of schemes per payer above 500, and average amount paid per payer of € 2-4 million.

countries, providing information on pensions worth € 9.6 billion and concerning some 3 million pensioners (respectively, 70% and 61% of total flows). Three South European countries, Italy, Spain, and Portugal, are the top recipients of PEN-related information, cumulatively accounting for 2.2 million pensioners receiving € 7.1 billion (respectively, 51% and 45% of the total). France and Germany were also important receiving countries, with information flows totalling € 3.4 billion and concerning some 800,000 pensioners, of which about 30% referred to bilateral flows.

Unlike the case of income from employment, **the differences in the average value of reported pension payments are relatively limited**. There are the cases of countries with particularly generous pension systems reporting high values (Luxembourg above € 11,000, Denmark and Sweden above € 8,000), but they account for only 5% of total exchanges. Germany and France, the two main sending countries, report pensions averaging around € 3,200. Accordingly, the average value of reported payments to Italian, Spanish and Portuguese pensioners is in the same order of magnitude, around € 3,300.

F.5 Life Insurance Products

The exchange of information on LIP is by far the smallest. The number of policies about which information was exchanged accounts for a mere 0.13% of the total taxpayers concerned by DAC1 exchanges, while the total value of inward and outward payment concerned by the information exchanged between 2015 and mid-2017, is a paltry €100 million, i.e. 0.09% of the total of the five income types. **Only eight countries send information on this type of income**, but for two of them information flows are minimal (Estonia sent information on just one policy worth € 761, while Latvia sent information on 28 policies, whose value is unknown). Overall, very little additional information can be found in the statistical queries provided by Member States. Some 60% of the total amount, mostly corresponding to the information sent by France, are marked as 'outward' payments, while for the bulk of the remaining, i.e. the information sent by Belgium and the Netherlands, the type of payment is not specified. Similarly, details on the policy type are virtually never provided.³¹⁷

F.6 Immovable Property

Twenty-one countries shared information on IP, concerning in message year 2016 some 1.2 million parties. The information exchanged has included details on the changes of ownership of IP (transactions) as well as on income flows related to IP (rentals, rights, etc.). The exchange of information has concerned in message year 2016 some € 1.3 billion of income from IP, of which € 1.2 billion from rentals alone, as well as some € 7.2 billion of transactions. It should also be noted that, even though a lot of statistical information is in principle collected on this type of income (e.g. on the use of immovable properties as loans or collateral), not all Member States provide details for all aspects, which prevents a full-fledged analysis.

Italy and Spain are the top senders of information in terms of number of parties concerned, accounting in message year 2016 for nearly 60% of the total exchanges, while **the UK is the top sender of information as regards income from IP**, accounting for some € 842 million in message year 2016 (over 70% of the total). In particular, the information sent from the UK to Ireland alone represented some 18% of the overall value of income from IP exchange in that year. **France and Germany are the top recipients of information in terms of number of parties concerned, followed at distance by the UK.** Germany is also the largest recipient of messages in terms of income from IP. Notably, if messages coming from Italy are excluded, Germany is only the third recipient of information by amounts, behind France and the Netherlands.

Finally, it should be noted that the analysis of IP statistics is affected by the fact that the information provided by Italy regarding message year 2017 is of much larger magnitude compared to other countries (and over 10 times higher than the exchanges reported by Italy

³¹⁷ Only Bulgaria and Romania specify that some of the information they share refer to 'pure risk' insurances, but the amount marked for this policy type corresponds to 0.35% of the total exchanged for LIP.

itself concerning message year 2016). For instance, only eight out of 21 countries provide information on the exchanges concerning the value of transactions, for a total of € 87 billion between 2015 and mid-2017, of which € 80 billion originating from Italy (of which € 73.7 concerning message year 2017). Similarly, 17 out of the 21 countries provide information on the number and type of properties concerned by the exchange. Of the 9.9 million properties interested by exchanges between 2015 and mid-2017, 7.2 million come from information sent by Italy. Finally, of the total three million parties concerned by the exchanges between 2015 and mid-2017, over 1.4 million refer to messages sent from Italy.

ANNEX G – INFORMATION ON AEOI IMPLEMENTATION COSTS

G.1 AEOI Costs – 2015 - DAC1

MS	Development Costs	Recurrent Costs	Total Costs	Comments
AT	384,000	100,000	484,000	Development costs supposedly referred to the whole 2014-2016 period
BE	4,182,009	436,054	4,618,063	Only cost for IT contractor, no HR costs
BG	..	..	..
CY	..	..	..	Zero value interpreted as not available
CZ	..	..	..
DE	7,149,404	342,674	7,492,078	
DK	2,530,000	270,000	2,800,000	
EE	329,884	31,600	361,484	
EL	..	..	..	Unable to provide an estimate (all the work was done internally)
ES	45,000	5,500	50,500	Costs only refer to HR
FI	4,110,000	78,000	4,188,000	Costs include IT services and HR
FR	..	..	..	Provided a single figure for Development Costs and Recurrent Costs (€ 974,598). However, the figure is scarcely compatible with subsequent estimate (see Exhibit C.4). Excluded from the analysis.
HR	519,992	29,240	549,232	Only cost for IT external contractor, no HR costs
HU	31,146	1,737	32,883	Development Costs refer to assets, Recurrent Costs to IT developers
IE	226,239	226,239	452,478	Same figure provided for Development and Recurrent costs. It includes only IT costs, no HR
IT	..	..	..	Zero value interpreted as not available
LT	83,000	..	83,000	Costs only refer to HR. IT system developed in house
LU	1,840,000	300,000	2,140,000	
LV	129,274	..	129,274	
MT	145,000	45,000	190,000	Development Costs include IT and HR, but IT not specific for AEOI. Recurrent costs are a rough estimate
NL	0	130,000	130,000	No Development Costs because NL reportedly already had a system to exchange information. Recurrent Costs only refer to HR
PL	..	..	..
PT	92,000	60,000	152,000	Only cost for IT external contractor, no HR costs
RO	400,000	300,000	700,000	
SE	..	..	..	Provided only an aggregate estimate (€ 3 million) for all the years and all types of information exchange (DAC1, DAC2, CRS, FATCA). (see Exhibit C.4). Excluded from the analysis.
SI	400,000	..	400,000	Costs only refer to IT
SK	1,000,000	1,000,000	2,000,000	
UK	3,000,000	1,000,000	4,000,000	
Total	26,596,948	4,356,044	30,952,992	Excluding FR and SE

G.2 AEOI Costs – 2016 – DAC1

MS	Development Costs	Recurrent Costs	Total Costs	Comments
AT	180,000	65,000	245,000	Figures reported are higher than those envisaged in 2015 for the whole period
BE	705,196	215,937	921,133	Only cost for IT contractor, no HR costs
BG	..	..	..	Zero value interpreted as not available
CY	..	..	..	Zero value interpreted as not available
CZ	..	..	..
DE	2,009,501	486,681	2,496,182	
DK	1,760,000	270,000	2,030,000	
EE	0	38,000	38,000	
EL	..	..	..	Unable to provide an estimate (all the work was done internally)
ES	10,000	5,500	15,500	
FI	86,000	78,000	164,000	Costs include IT services and HR
FR	..	..	..	Provided a single figure for Development Costs and Recurrent Costs (€57,568). However, the figure is scarcely compatible with subsequent estimate (see Exhibit C.4). Excluded from the analysis.
HR	0	56,556	56,556	Recurrent Costs refer to payments to IT contractor
HU	31,357	1,749	33,106	Development Costs refer to assets, Recurrent Costs to IT developers
IE	308,913	..	308,913	Same figure reported twice under both Development and Recurrent costs. Eliminated the latter
IT	..	..	..	Zero value interpreted as not available
LT	0	0	0	No additional costs compared with 2015
LU	3,040,000	600,000	3,640,000	
LV	129,274	..	129,274	
MT	220,000	90,000	310,000	Costs do not include HR in shared functions
NL	0	130,000	130,000	
PL	..	..	..
PT	21,600	21,600	43,200	Only cost for IT external contractor, no HR costs
RO	400,000	300,000	700,000	
SE	..	..	..	Provided only an aggregate estimate (€ 3 million) for all the years and all types of information exchange (DAC1, DAC2, CRS, FATCA). (see Exhibit C.4). Excluded from the analysis.
SI	52,000	..	52,000	Costs only refer to IT
SK	1,700,000	550,000	2,250,000	Costs only refer to IT
UK	300,000	1,000,000	1,300,000	
Total	10,953,841	3,909,023	14,862,864	Excluding FR and SE

G.3 AEOI Costs – 2017 – DAC1

MS	Development Costs	Recurrent Costs	Total Costs	Comments
AT	200,000	50,000	250,000	Figures reported are higher than those envisaged in 2015 for the whole period
BE	3,437,123	100,000	3,537,123	Only cost for IT contractor, no HR costs
BG	..	..	..
CY	..	..	..	Zero value interpreted as not available
CZ	..	..	..
DE	4,606,689	658,290	5,264,979	
DK	44,158	240,000	284,158	
EE	0	31,500	31,500	
EL	..	..	..	Unable to provide an estimate (all the work was done internally)
ES	123,000	4,000	127,000	
FI	0	334,000	334,000	Costs include IT services and HR, but the latter refers to AEOI in general, not just DAC1
FR	..	..	..	Provided a cumulative estimate covering all costs for DA1, DA2, DAC4 and FATCA, since 2013 (see Exhibit C.4). Excluded from the analysis.
HR	7,691	48,439	56,130	
HU	15,723	1,754	17,477	Development Costs refer to assets, Recurrent Costs to IT developers
IE	0	0	0	No additional costs in 2017
IT	..	..	..	Zero value interpreted as not available
LT	22,272	5,568	27,840	Provided a single figure for Development Costs and Recurrent Costs, apportioned on 80%-20% basis. Only HR costs
LU	1,946,000	157,500	2,103,500	
LV	620	5,911	6,531	
MT	50,000	90,000	140,000	
NL	0	0	0	
PL	..	..	..
PT	20,000	56,540	76,540	
RO	400,000	0	400,000	
SE	..	..	..	Provided only an aggregate estimate (€ 3 million) for all the years and all types of information exchange (DAC1, DAC2, CRS, FATCA). (see Exhibit C.4). Excluded from the analysis.
SI	0	30,000	30,000	For Development Costs reported the sum of the previous two years (hence eliminated). Recurrent Costs also include costs for admin coordination in VAT
SK	2,437,261	333,040	2,770,301	
UK	1,723,361	848,819	2,572,180	Information provided in the Yearly Assessment corrected based on additional information obtained via direct interaction. Breakdown between Development and Recurrent costs is approximate
Total	15,033,898	2,995,361	18,029,259	Excluding FR and SE

G.4 AEOI Costs - DAC1- Cumulated

MS	Development Costs	Recurrent Costs	Total Costs	Comments
AT	764,000	215,000	979,000	
BE	8,324,328	751,991	9,076,319	
BG	..	..	..
CY	..	..	..
CZ	..	..	..
DE	13,765,594	1,487,645	15,253,239	
DK	4,334,158	780,000	5,114,158	
EE	329,884	101,100	430,984	
EL	..	..	..
ES	178,000	15,000	193,000	
FI	4,196,000	490,000	4,686,600	
FR	..	..	3,200,000	Own guess-estimate based on the cumulative value of € 6.4 million covering all costs for DAC1, DAC2, DAC4 and FATCA since 2013. 50% of the total value attributed to DAC2.
HR	527,683	134,235	661,918	
HU	78,226	5,240	83,466	
IE	535,152	226,239	761,391	
IT	..	..	..
LT	105,272	5,568	110,840	
LU	6,826,000	1,057,500	7,883,500	
LV	259,168	5,911	265,079	
MT	415,000	225,000	260,000	
NL	0	260,000	260,000	
PL	..	..	..
PT	133,600	138,140	271,740	
RO	1,200,000	600,000	1,800,000	
SE	..	..	1,500,000	Own guess-estimate based on the cumulative value of € 3.0 covering all costs for DAC1, DAC2, CRS and FATCA since 2013. 50% of the total value attributed to DAC2.
SI	452,000	30,000	482,000	
SK	5,137,261	1,883,040	7,020,301	
UK	5,023,361	2,848,819	7,872,180	
Total	52,584,687	11,260,428	68,545,115	Values for FR and SE included only in Total Costs

G.5 AEOI Costs – 2017 – DAC2

MS	Development Costs	Recurrent Costs	Total Costs	Comments
AT	300,000	50,000	350,000	
BE	845,338	10,000	855,338	Only cost for IT contractor, no HR costs
BG	..	..	..
CY	..	..	..	Zero value interpreted as not available
CZ	..	..	..
DE	19,451,723	294,585	19,746,308	
DK	4,596,000	537,000	5,133,000	
EE	426,136	31,500	457,636	
EL	..	..	..	Unable to provide an estimate (all the work was done internally)
ES	193,000	4,000	197,000	
FI	307,000	85,000	392,000	The Development Costs reported refer to 50% of total IT costs inclusive of CRS-related costs
FR	..	..	3,200,000	Own guess-estimate based on the cumulative value of € 6.4 million covering all costs for DAC1, DAC2, DAC4 and FATCA since 2013. 50% of the total value attributed to DAC1
HR	310,602	0	310,602	
HU	31,446	1,754	33,200	Development Costs refer to assets, Recurrent Costs to IT developers
IE	976,131	0	976,131	
IT	..	..	..	Zero value interpreted as not available
LT	167,616	41,904	209,520	Provided a single figure for Development Costs and Recurrent Costs, apportioned on 80%-20% basis. Only HR costs
LU	3,255,000	387,500	3,642,500	
LV	268,655	20,689	289,344	
MT	190,000	90,000	280,000	
NL	2,908,000	0	2,908,000	
PL	..	..	..
PT	46,280	10,000	56,280	
RO	..	..	..
SE	..	..	1,500,000	Own guess-estimate based on the cumulative value of € 3.0 covering all costs for DAC1, DAC2, CRS and FATCA since 2013. 50% of the total value attributed to DAC2.
SI	360,500	0	360,500	Development Costs include € 190,000 for an unspecified annual fee
SK	3,878,453	362,590	4,241,043	Only IT-related costs, excluding HR
UK	3,350,000	1,650,000	5,000,000	Unable to distinguish Development from Recurrent costs, reported same figure twice. Retained only once and apportioned on a 67%-33% basis.
Total	41,861,880	3,576,522	50,138,402	Values for FR and SE included only in Total Costs

G.6 AEOI Costs – 2017 – DAC3

MS	Development Costs	Recurrent Costs	Total Costs	Comments
AT	200,00	20,000	220,000	
BE	604,764	131,473	736,147	Only cost for IT contractor, no HR costs
BG	..	..	..
CY	..	..	..	Zero value interpreted as not available
CZ	..	..	..
DE	70,000	340,200	410,200	
DK	10,000	20,150	30,150	
EE	0	0	0	
EL	..	..	..	Unable to provide an estimate (all the work was done internally)
ES	145,000	4,000	149,000	
FI	..	..	..
FR	..	..	..
HR	0	0	0	
HU	292	0	292	
IE	0	9,788	9,788	
IT	..	..	..	Zero value interpreted as not available
LT	33,408	8,352	41,760	Provided a single figure for Development Costs and Recurrent Costs, apportioned on 80%-20% basis. Only HR costs
LU	176,000	29,500	205,500	
LV	250	658	908	Recurrent costs only refer to HR
MT	15,000	15,000	30,000	
NL	290,800	0	290,800	
PL	..	..	..
PT	20,000	8,140	28,140	
RO	..	..	..
SE	..	..	..
SI	..	..	..
SK	Zero value interpreted as not available
UK	
Total	1,565,424	587,261	2,152,685	

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