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TAXATION AND CUSTOMS UNION  
Direct taxation, Tax Coordination, Economic Analysis and Evaluation  
Direct Tax Policy and Cooperation

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# **EU JOINT TRANSFER PRICING FORUM**

## **Statistics on APAs in the EU at the End of 2018**

	What types of Advance Pricing Agreement (APA) options are available?	Is there a filing fee for APA requests?	Total Number of APAs in force at the end of 2018		Total Number of Bilateral and Multilateral APAs in force at the end of 2018		Total Number of Unilateral APAs in force at the end of 2018		Number of APA requests received in 2018		Number of APAs granted in 2018		Number of APA applications rejected in 2018		Number of APA applications where the taxpayer withdrew its request in 2018		Average time in months to negotiate bi- or multilateral APAs	
			EU	NON-EU	EU	NON-EU	EU	NON-EU	EU	NON-EU	EU	NON-EU	EU	NON-EU	EU	NON-EU	EU	NON-EU
<b>Austria</b>	Unilateral (Advance rulings); Bilateral; Multilateral	For unilateral yes, for bilateral/multilateral - no	28	28	11	2	17	26	3	6	3	6	0	0	0	0	20	22
<b>Belgium</b>	Unilateral (Advance rulings); Bilateral; Multilateral	No	317	190	11	9	306	181	245	179	265	113	1	-	7	1	15	27
<b>Bulgaria</b>	No regulations available at this moment																	
<b>Croatia</b>	Unilateral, Bilateral and Multilateral	Yes HRK 15 000, HRK 30 000, HRK 50 000, it depends on the revenue from last tax return. HRK 15 000 for applicants who applicants who started business in the tax period in which the statement is submitted. For bilateral agreements costs shall be increased for HRK 50 000. For multiple agreements costs shall be increased for HRK 100 000.	1	0	0	0	1	0	0	0	1	0	0	0	0	0	12	
<b>Cyprus</b>	APAs are not available. Advance rulings on the interpretation/application of the tax laws are available on request																	
<b>Czech Republic</b>	Unilateral (Advance rulings legislation from 1 <sup>st</sup> of January 2006); Bilateral and Multilateral (possible under MAP)	Yes CZK 10 000	51	17	3	2	48	15	22	9	11	3	3	-	-	1	65	55
<b>Denmark</b>	Bilateral, Multilateral, Advance rulings	Yes Only for Advance Rulings; the filing fee is DKK 300.	3	21	3	21	-	-	5	5	2	7	1	-	-	-	44	42
<b>Estonia</b>	No APAs or advance rulings of any kind. Bilateral APAs in principle possible under MAP																	
<b>Finland</b>	Advance rulings (unilateral APA), bilateral and multilateral APAs.	Yes (unilateral only)	5	1	4	1	1	-	3	5	-	-	-	-	-	2	-	-
<b>France</b>	Unilateral; Bilateral; Multilateral	No	14	26	10	17	4	9	12	7	2	5	2	-	1	-	31	24
<b>Germany</b>	Bilateral; Multilateral (Unilateral rulings on transfer pricing are only available under exceptional circumstances specified in a 2006 Federal Ministry of Finance circular)	Yes Generally: EUR 20 000 (15 000 for prolongation / 10,000 for amendment); Smaller enterprises: EUR 10 000 (7 500 / 5 000); In case of hardship and specific interest of tax administration in APA: 0 €	19	24	19	24			32	24	17	17	1	-	3	1	52 (average for APAs granted 2018) / 43 (overall average for APAs granted 2016, 2017 and 2018)	45 (average for APAs granted 2018) / 49 (overall average for APAs granted 2016, 2017 and 2018)

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<b>Greece</b>	Unilateral, bilateral, multilateral APAs.	Yes. Upon filing of the application for preliminary consultation, a duty of EUR 1000 is paid. For filing the APA application the duty amounts to EURO 5000. In case consultations with foreign tax authorities take place, a duty of EURO 10.000 is paid for consultation procedure with each country involved.	-	1	-	1	-	-	6	-	3	-	-	-	-	-	-	20	-
<b>Hungary</b>	Unilateral, bilateral, multilateral APAs.	Yes. As of 2018 the filing fee for unilateral APA is HUF 2 000 000, for bilateral APA is HUF 4 000 000, for multilateral APA is HUF 2 000 000 multiplied by the number of competent authorities involved.	44	10	0	0	44	10	18	9	15	1	1	0	1	0	-	-	
<b>Ireland (Republic of)</b>	Bilateral under treaties. Multilateral to the extent that they consist of a series of bilateral agreements	No	1	3	1	3	-	-	6	3	2	1	-	-	-	-	18	17	
<b>Italy</b>	Unilateral, bilateral and multilateral APAs are available pursuant to Article 31-ter of the President Decree n° 633/1973, introduced by Legislative Decree n° 147/2015, and the MAP Article of the relevant Tax Treaty.	No	77	93	4	11	73	82	105	68	20	28	5	-	9	7	51	34	
<b>Latvia</b>	Unilateral APAs	YES, 7'014 EUR	1	-	-	-	1	-	4	1	2	-	-	-	-	-	-	-	
<b>Lithuania</b>	APA legislation from 01/01/2012. Unilateral, Bilateral or Multilateral APAs, Advance rulings	No	5	1	-	-	5	1	3	-	1	-	-	-	-	-	N/A	N/A	
<b>Luxembourg*</b>	Unilateral, bilateral, multilateral APAs.	Yes, filing fee of 10,000 EUR per APA request.	14	-	9	-	5	-	19	1	6	-	3	-	3	-	24	-	
<b>Malta</b>	No rules specific to APAs yet but unilateral, bilateral and multilateral advance rulings are available.	No																	
<b>Netherlands *</b>	Unilateral; Bilateral; Multilateral; Advance rulings	No	Not administered	Not administered	Not administered	Not administered	Not administered	Not administered	148	Split EU & non-EU not administered	118	Split EU & non-EU not administered	-	Split EU & non-EU not administered	45	Split EU & non-EU not administered	2 years	2 years	

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<b>Poland</b>	Unilateral; Bilateral; Multilateral	Yes The filing fee is 1% of the value of a transaction with the following provisions: for domestic unilateral agreement (i.e. involving only domestic related entities) - no less than PLN 5,000 and no more than PLN 50,000; for unilateral agreement concerning foreign entities no less than PLN 20,000 and no more than PLN 100,000; for foreign bilateral or multilateral the fee amounts should be no less than PLN 50,000 and no more than PLN 200,000. Renewal fees are half of the amount of the original filing fee.	22	6	5	4	17	2	51	19*	9	-	-	-	-	-	-	23	34
<b>Portugal</b>	The Tax Code on CIT (Art. 138) and the Ministerial Order n.º 620-A/2008, 16 July, allow unilateral, bilateral and multilateral APAs	Yes The filing fee is variable according to the taxpayer's turnover. The minimum fee is EUR 3 152,40 and the maximum - EUR 34 915,85. Renewal fees are 50 % of the amounts of the original fees.	10	3	1	-	9	3	2	-	7	3	-	-	-	-	-	-	-
<b>Romania</b>	Unilateral; Bilateral; Multilateral	Unilateral; Bilateral; Multilateral; The filing fees are:- large taxpayers 20.000 Euro 15.000 Euro for the modification of the APA in force - other types of taxpayers (small, medium size taxpayers) 10.000 Euro 6.000 Euro for the modification of the APA in force	12	3	-	3	12	-	10	-	3	-	-	-	-	-	-	-	26
<b>Slovenia</b>	Unilateral, bilateral, multilateral APAs.	Yes. The filing fee is 15.000 Euro and 7.500 Euro for the extension of the APA in force	1	0	0	0	1	0	0	0	1	0	0	0	0	0	0	-	-
<b>Slovak Republic</b>	Unilateral, bilateral, multilateral APAs.	Yes. In case of unilateral APA it is 10 000 EUR. In case of bilateral/multilateral it is 30 000 EUR	11		-		11	-	3	-	3	-	2	-	-	-	-		
<b>Spain</b>	Unilateral; Bilateral; Multilateral	No	65*	14	10	2	55**	12	62***	8	17****	2	5*****	-	9*****	5	14,42*****		
<b>Sweden</b>	APA legislation from 1 January 2010. Only bilateral or multilateral APAs.	Yes 150,000 SEK per country (Prolongation fee 100,000-125,000 SEK)	7	14	7	14	-	-	5	2	4	7	-	1	1	-	48	46	
<b>UK</b>	Unilateral; Bilateral	No	18	60	18	41	-	19*	14	17*	8	23*	1	5	-	-	55,3**	35,2**	
<b>Total</b>			<b>726</b>	<b>515</b>	<b>116</b>	<b>155</b>	<b>610</b>	<b>360</b>	<b>778</b>	<b>327</b>	<b>520</b>	<b>193</b>	<b>25</b>	<b>6</b>	<b>79</b>	<b>17</b>			

Explanations from Member States:

NL	* Columns 1-6 not administered; Columns 8, 10, 12, and 14: Split EU and non-EU not administered. Numbers align with APA 2018 annual report.
ES	<p>*Includes APAs that affect both EU and EU + non EU</p> <p>**Includes APAs that affect both EU and EU + non EU</p> <p>***Includes APAs that affect both EU and EU + non EU</p> <p>****Includes APAs that affect both EU and EU + non EU. It also includes 1 APA which was granted in 2018 but not in force until 2019</p> <p>*****Includes APAs that affect both EU and EU + non EU</p> <p>*****Includes APAs that affect both EU and EU + non EU</p> <p>*****Average time in months of bi- or multilateral APAs granted in 2018</p>
PL	<p>* In Poland it is possible to grant an unilateral APA which covers a transaction consisted of several identical transactions with several related entities in different countries (one of the features of such transactions is that they are conducted in a single centre in Poland). To issue a single APA instead of many, such transactions should be identical in kind and share the merits, facts and circumstances (one of the features of such transactions is that they are conducted in a single centre in Poland). The reason is not to multiply fees and APA decisions for the minor – in terms of value – identical transactions conducted with many related entities (one of the features of such transactions will not be the subject of APA examination because of the value/fee ratio). In 2018 12 such applications were submitted. In those transactions EU and non-EU countries were involved. For the purpose of JTPF statistics those applications were submitted by non-EU countries only, to prohibit the multiplication of the records.</p>
UK	<p>(*)Given the nature and complexity of some unilateral APAs the UK does not record central data on the how each covered transaction is split across EU and non EU member states. In liner with previous years the data has been allocated to non-eu categories.(**) This data is for the APA's granted in the year.</p>
LU	<p>(*) Given that a unilateral APA may cover EU and NON-EU transactions at the same time, the split EU and NON-EU is only made for bilateral APAs.</p>

The questionnaire aims to collect information about APAs for companies and PEs.

The reference year for this document is 2018 (situation prevailing at the end of 2018).

Most of the columns are broken down into APAs between EU MS and non-EU countries.

**The terms used in the table should be understood as follows:**

**"APA"**: is an arrangement that determines, in advance of controlled transactions, an appropriate set of criteria (e.g. method, comparables and appropriate adjustments thereto, critical assumptions as to future events) for the determination of the transfer pricing for those transactions over a fixed period of time.

**"APA in force"**: an APA is considered as "in force" when it was granted before the end of the reference year (e.g. 2018) and the agreement's term covers the reference year. Therefore, an APA granted during the reference year (N year) but starting in N+1 year is not counted as "in force at the end of the reference period". The figure in the column "total number of APAs in force" should be the result of adding the following two columns: bi- and multilateral APAs in force and unilateral APAs in force.

**Counting of APAs**: If an APA covers transactions with more than one company of the MNE in the respective MS (e.g. Subsidiaries A and B in MS X each having transactions with parent company P in State Y covered by the APA), each APA should be counted (here 2 APAs in MS X).

**Counting of multilateral APAs**: A multilateral APA should be considered as several bilateral APAs and should also be counted that way for statistical purposes, i.e. a multilateral APA signed by member State A, member State B and member State C is counted, from the perspective of State A, as a bilateral APA between A and B, a bilateral APA between A and C and therefore as two APAs. Likewise, a request for such a multilateral APA is counted as two requests.

**"Requests received"**: an APA request should be counted as received in the year the formal written APA request was filed. The term "APA request" has a meaning in line with section 4.52 and 4.53 of the EU JTPF APA Guidelines, i.e. a formal application supplemented with appropriate information. Pre-filing requests are therefore not considered.

<p><b>"APA granted"</b>: an APA is considered as granted</p> <ul style="list-style-type: none"> <li>• when the Competent Authority(ies) has (have) formally agreed to the APA, whatever form this formal agreement takes (exchange of letters, signature of the agreement, ...) and</li> <li>• all the subsequent formal proceedings that may be required are fulfilled (e.g. a formal agreement by the taxpayer or an advance ruling granted to the taxpayer).</li> </ul> <p>That is, if a bilateral APA was signed by the Competent Authorities in year N and e.g. the implementing domestic advance ruling or the taxpayer's agreement was only granted in N + 1, the APA is counted as granted in N + 1<sup>2</sup>.</p> <p><i>2) Mismatches may result both from different member States' approaches (e.g. one MS' reference date is that of the closing letter and for the other MS, it is that of the taxpayer's agreement) and also from the internal implementation in a different year of the proposed approach. Although these discrepancies are considered as tolerable for the purpose of these statistics, CAs may want to avoid them by informing each other about subsequent proceedings and agree on the date they consider the APA as finally granted.</i></p>
<p><b>"APA applications rejected"</b>: an APA is considered as rejected when an APA application is not accepted by the tax administration or negotiations to reach a bilateral or multilateral APA failed and therefore no APA was granted.</p>
<p><b>"Average time in months to negotiate the APAs"</b>: this column indicates on average the period between the time an APA request was received and the formal agreement of the APA. Unilateral APAs are excluded from the calculations.</p>