

DAC6: a state of play from the European Commission's perspective

2026 update — from BEPS Action 12 to the DAC Recast

DG TAXUD – TAXUD D2 Cooperation in the field of taxation

IOTA WORKSHOP “Combating international tax avoidance and aggressive tax planning”- 23 & 24 September 2026

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Introduction: How it started



The leaks

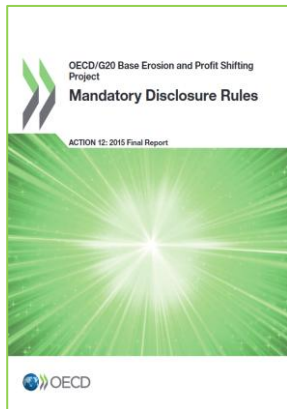
Year	Initial role & focus of the coverage	Major revelations
Offshore Leaks (2013)	First major shared investigation by the ICIJ . Coverage focused on the global mapping of tax havens.	2.5 million documents disclosing the secret assets of wealthy individuals and political figures on an international scale.
Lux Leaks (2014)	Initially revealed via the ICIJ . Closely followed by Le Monde and The Guardian .	Secret tax agreements (“ rulings ”) negotiated by major audit firms to allow multinationals to avoid tax through Luxembourg .
Swiss Leaks (2015)	Data from the “Falciani list” were obtained by Le Monde , which shared them with the ICIJ , the BBC (Panorama) , The Guardian and the Süddeutsche Zeitung .	Massive tax fraud and money laundering orchestrated by the Swiss subsidiary of a global Private Bank , shielding more than 100,000 clients.
Panama Papers (2016)	An anonymous source contacted the Süddeutsche Zeitung , which shared the 2.6 TB of data with the ICIJ , leading the BBC , The Guardian and Le Monde , and The Economist to investigate in secret for months.	11.5 million documents from the law firm Mossack Fonseca exposing the systematic use of shell companies by heads of state, oligarchs (close to Russian government), billionaires and celebrities.
Paradise Papers (2017)	Data obtained by the Süddeutsche Zeitung , involving 95 media organisations, and coordinated globally via the ICIJ .	Leak of 13.4 million files revealing aggressive tax-optimisation schemes used by multinationals and the hidden wealth of rich and powerful individuals and organisations.



1. Legal framework

From BEPS Action 12 to the LPP fix (DAC8)

Origins: from BEPS to DAC6



Base Erosion and Profit Shifting Action 12 (Mandatory Disclosure Rules) inspired the **Council Directive (EU) 2018/822 — “DAC6” — amending the 2011 Directive on Administrative Cooperation.**

1 Introduces mandatory disclosure rules

Intermediaries (or taxpayers) must declare potentially aggressive cross-border tax arrangements

2 Enables and organizes the automatic exchange of information within the EU

Member States share and collect data through a central directory

3 Strengthens tax transparency and aims to deter harmful practices

Member States can find and investigate loopholes. Sanctions must be applied to noncompliant intermediaries and taxpayers

Mechanism of reporting

1. INTERMEDIARIES (Primary)

Anyone who designs, markets, organises, makes available or manages the implementation of a reportable arrangement (tax advisors, lawyers, banks, consultants...).

2. TAXPAYERS (if LPP applies)

Where the intermediary is (i) exempt under Legal Professional Privilege or (ii) is not based in the E.U. or (iii) there is no other intermediary, the obligation shifts to other intermediaries if any (i) (ii) or ultimately to the relevant taxpayer (i) (ii) (iii).

3. HALLMARKS + MAIN BENEFIT TEST

An arrangement is reportable if it is cross-border and contains at least one hallmark (A–E). **Categories A, B and certain C hallmarks** also require the **Main Benefit Test** (main benefit or one of the main benefits = obtaining a tax advantage). Categories D & E do not require the MBT. Hallmarks are common characteristics of tax planning.

TRIGGER

- Earliest of:
- Made available
 - Ready for implementation
 - First step taken



FILE (30 DAYS)

Intermediary or taxpayer files with national tax authority within 30 days of the trigger.



CENTRAL DIRECTORY

Tax authority uploads to DAC6 Central Directory within 1 month after quarter-end.



Hallmarks and main benefit test (Annex IV)

Cross-border arrangements are categorized into five hallmark groups (A–E)

● Main Benefit Test applies

● No Main Benefit Test required

A

Generic Hallmarks

- Confidentiality tied to fee
- Standardized, marketed structures
- Fee linked to tax advantage

MBT applies

B

Specific Hallmarks I

- Acquiring loss-making companies
- Converting income to lower-taxed forms
- Circular / round-tripping transactions

MBT applies

C

Specific Hallmarks II

- Deductible cross-border payments
- Payments to low/zero-tax jurisdictions
- Double deduction or relief claims

MBT mostly applies

D

AEOI & Beneficial Ownership

- Structures bypassing CRS reporting
- Opaque ultimate beneficial owners
- Layered, unsupportive shell chains

No MBT required

E

Transfer Pricing

- Unilateral safe-harbor reliance
- Hard-to-value intangibles (HTVI)
- Intra-group EBIT drop restructurings

No MBT required



The legal professional privilege challenges and the DAC8 fix

8 DEC 2022

17 OCT 2023

29 JUL 2024

CJEU Case C-694/20

Orde van Vlaamse Balies: requiring a lawyer-intermediary covered by LPP to notify other, non-client intermediaries **breaches Article 7 of the Charter.**

Council Directive (EU) 2023/2226 — “DAC8”

Amends Article 8ab(5) to codify the ruling: lawyers no longer have to notify other intermediaries who are not their clients.

CJEU Case C-623/22

Belgian Association of Tax Lawyers: The CJEU validates the overall framework of DAC6, refusing its annulment. It further shapes the **LPP waiver**, as it applies exclusively to attorneys-at-law (“*avocats/advocaten*”), and finds reporting must be limited to arrangements ready for implementation.

- ! **Exclusion of other professionals from the waiver, and client notification from lawyers still required**

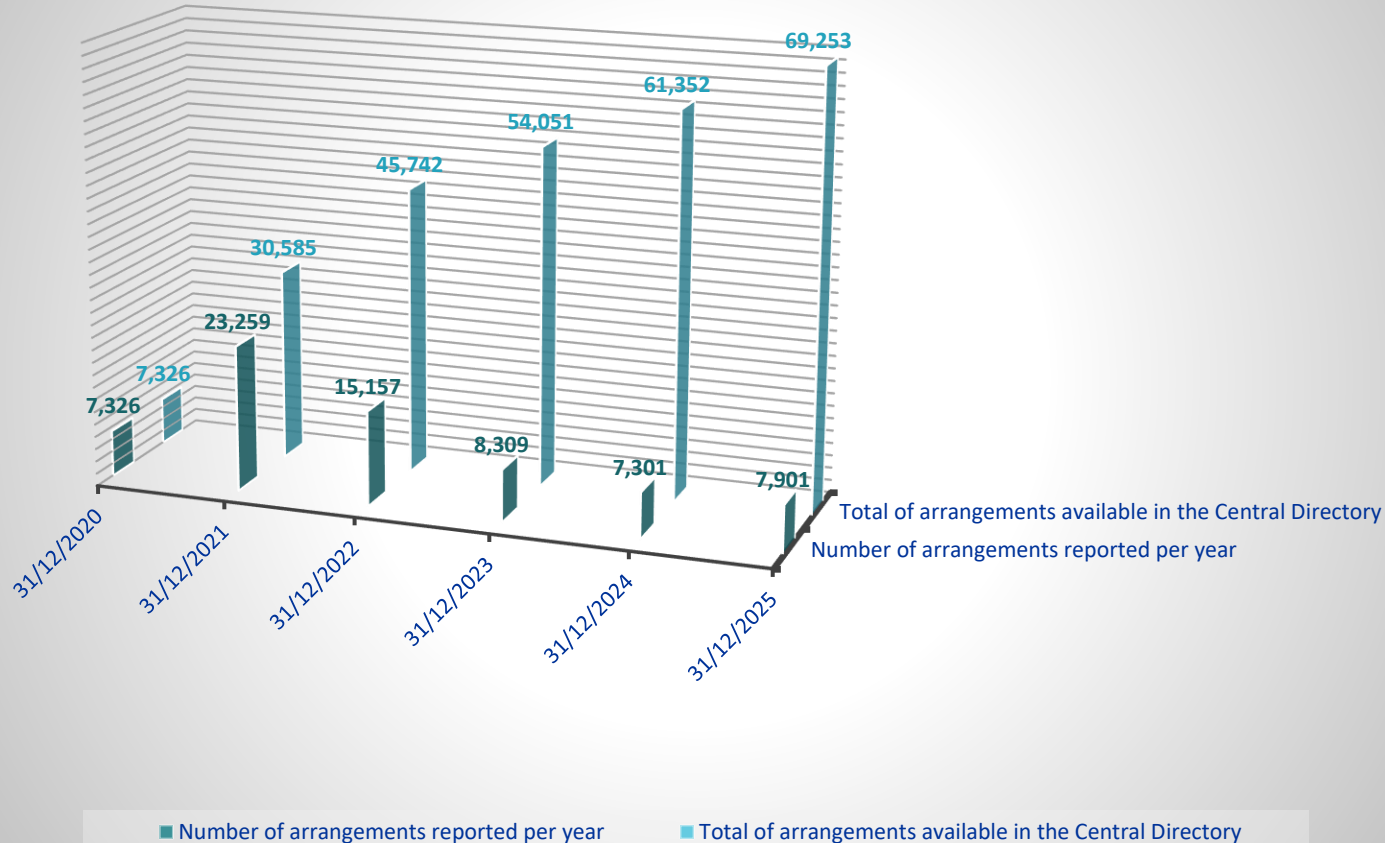


2. Using DAC6 Information

What Member States actually do with it



2020-2025: Nearly 70.000 arrangements reported by a limited number of Member States



**Top 11 reporting
(More than 1000
arrangements
reported)**

DE	50%
NL	13%
CY	7%
PL	7%
LU	5%
IE	3%
FR	3%
BE	2%
IT	2%
SE	2%
DK	2%



How DAC6 data feeds tax administration work

Risk assessment, control & audit activity

Individual taxpayers: completeness and accuracy of declared income; assessment of the tax scheme where identified, evaluation of the tax loss.

Legal entities & arrangements: high-level transfer-pricing risk analysis; Base Erosion and Profit shifting-related risk analysis; assessment of the tax scheme where identified, evaluation of the tax loss.

Identification of tax loopholes

Specific analyses aimed at identifying potential legislative or regulatory loopholes and determine an appropriate strategy implementing corrective measures

Further enquiries

Often combined with DAC3 / DAC4 data, investigating into MNE transfer-pricing arrangements or other tax matters during an audit.

Tax assessments

Based on examination of filed returns, outside a formal audit, to adjust the taxable basis.

Limited audit

On-site audit or examination focused on specific categories of income or capital.

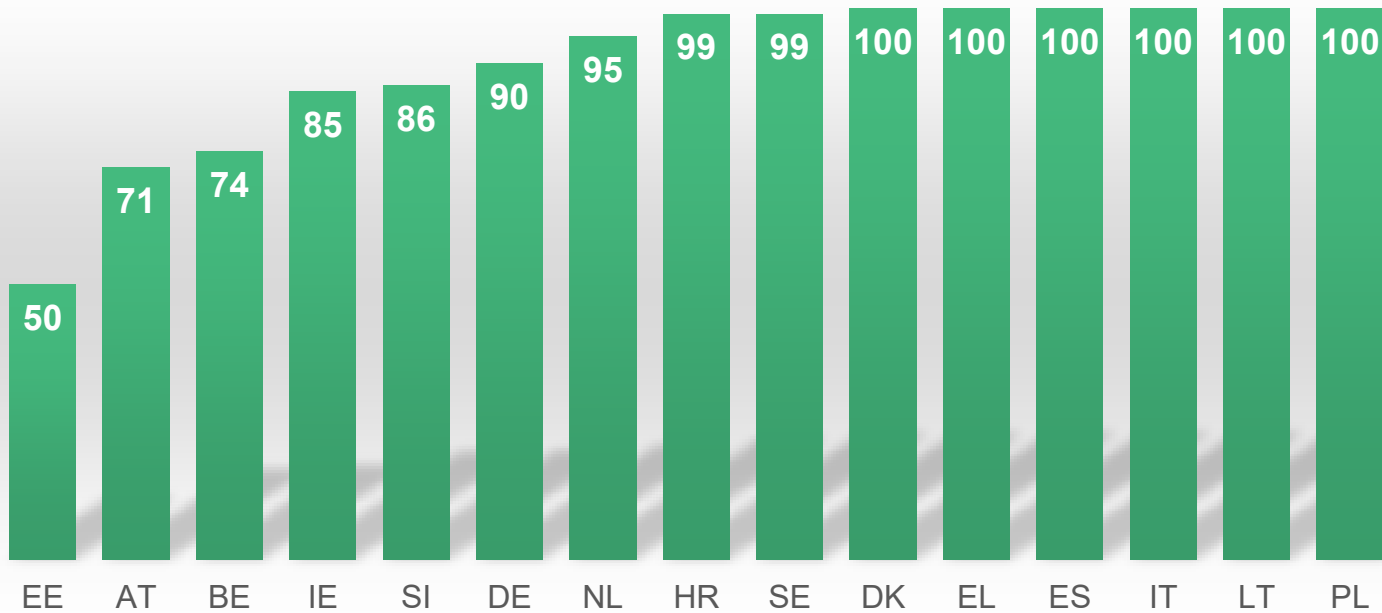
General audit

Full tax audit: accounts, transfer-pricing documentation, and/or bank accounts.



The 2025 picture: matching process

Feedback from 16 Member States · AEOI Yearly Assessment 2026 (2025 data)



12 Member States do not report a matching rate at all

15 Member States have a routine matching the whole data set

9 Member States have a selective or partial processing

3 Member States have no processing of data

13 Member States have a process to increase identification among unmatched data

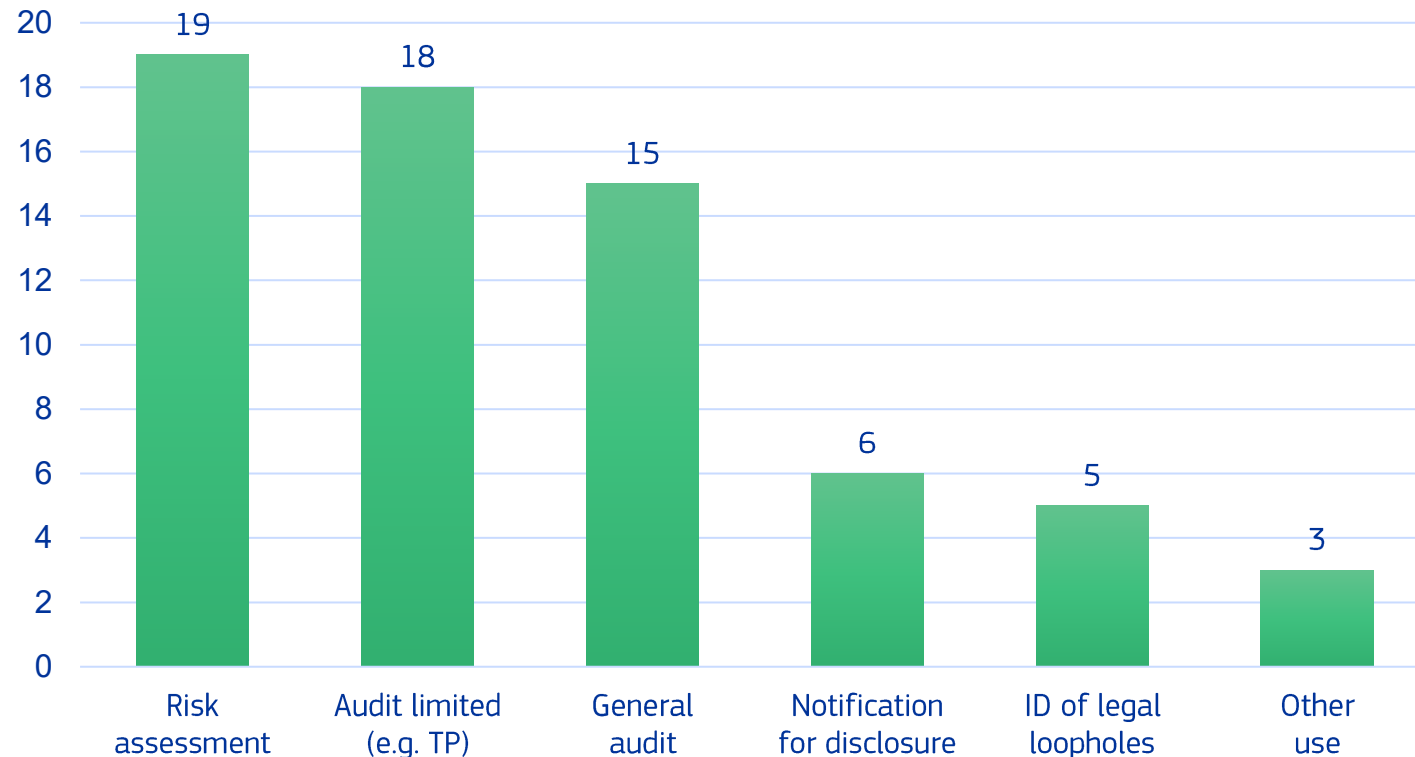
Matching rate (automatic/ fuzzy matching/ manual) per Member State – EU average (reporting MS): ~ 90%

Recurrent issues identified: TIN problems; Concerned Member State flagged wrongly ; Summaries (free text) quality



The 2025 picture: use of DAC6 data, by category

Feedback from 27 Member States · AEOI Yearly Assessment 2026 (2025 data)



Categories of utilization of DAC6 data – number of Member States having at least one usage

Some Member States report NO USE at all (3) or only LIMITED USE (4) so far, generally due to lack of resources, absence of monitoring tools, burdensome manual processes, or data-processing systems that are still being developed

Tax authorities often derive more value when DAC6 data can be linked reliably to identified taxpayers (correct TIN or names, relevant summaries) and incorporated into existing risk analysis workflows rather than analysed as isolated disclosures



DAC6 Tax enforcement & cross-border case analysis

Sources: AEOI Yearly Assessment 2026 (2025 data) – Journées de l'échange automatique d'information 2026 (DGFIP, France)

Hallmarks-focused analysis

Practical application of Category C hallmarks in corporate restructurings and LBO debt financing (France)

Systematic processing Hallmark D disclosures and high-risk case selection (Italy)



Hallmark C4

Material consideration differences in cross-border asset transfers.



Hallmark C1(b)(i)

Deductible payments to associated entities in zero-tax jurisdictions.



Hallmark D

Arrangements undermining CRS reporting or beneficial ownership transparency.

Tax authority analysis and reassessment

Asset valuation mismatch in share restructuring

- Material consideration difference across jurisdictions
- Recharacterization of capital gain treatment
- Primary audit focus on artificial valuation gaps

LBO Financing and preferential tax jurisdiction

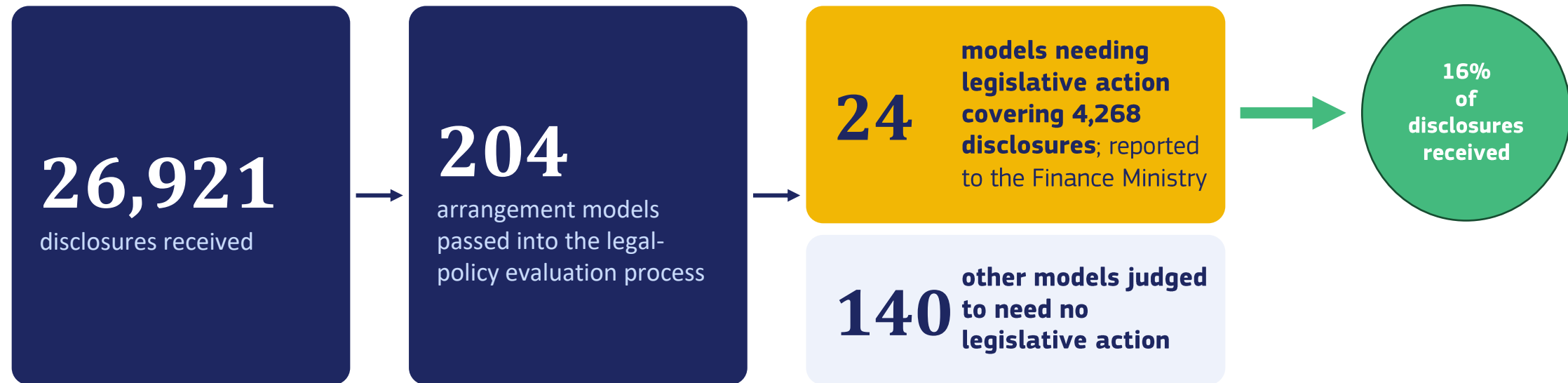
- Reclassification of invoiced charges already contained in debt terms.
- Application of withholding tax on services under Article 182 B CGI.

- Selection of disclosures
- Identification of persons concerned mapping all involved entities
- Confirmation tax residence (Italian tax status)
- Check data and link (cross-match financial records)
- Selection for audits isolating high-risk targets

DAC6 Detection of loopholes

Sources: AEOI Yearly Assessment 2026 (2025 data) – 20/6734, "Antwort der Bundesregierung auf die Kleine Anfrage der Fraktion der CDU/CSU", dated 8 May 2023

Finding legal loopholes in Germany



Source: Federal Government reply to a CDU/CSU parliamentary question, Bundestag Drucksache 20/6734 (8 May 2023)

4 other Member States use DAC6 to identify legal loopholes: Austria, Netherlands, Sweden, Slovakia



DAC6 Deterrent effect?

How mandatory cross-border disclosure enhances transparency and alters taxpayer behavior



Early-warning mechanism

- **Timely data:** direct notice of potentially harmful schemes
- **Secrecy reduction:** eliminates undisclosed planning
- **Audit risk:** higher detection deters aggressive planning as it leads to further action taken by tax authorities



Needs substantial penalties

- **Dual liability:** penalties for advisors & taxpayers
- **High fine cap:** Up to €870,000 in the Netherlands
- **Enforcement risk:** Strict cost for non-disclosure



Observed behaviors

- **Corporate controls:** internal due-diligence systems
- **Advisor internal guidance:** detailed multi-state procedures
- **Attitude shift:** cultural move away from risk



OVERALL CONSENSUS

Agreement among economists, lawyers on DAC6 deterrence, confirmed by certain Member States (FI, NL)

Sources: AEOI Yearly Assessment 2026 (2025 data) – Evaluation of the DAC (2025): Commission SWD(2025) 365, section 4.1.1.3 "The deterrent effect of the DAC"



3. DAC Evaluation and consultations

Lessons learnt and need for simplification

The evaluation, in three data points

DAC evaluation Report and SWD

Commission publishes its second DAC evaluation (2018–2023, DAC2–DAC6) and a Staff Working Document (19 November 2025)

€6.8 BILLION / YEAR

Estimated benefits of the DAC framework — DAC judged effective and efficient overall.

Robust framework / call for simplification and consolidation

Conclusion: Benefits outweigh costs.

DAC is an effective, efficient instrument — but complexity, especially under DAC6, remains a real challenge.

Feeding and complementing the evaluation: targeted stakeholder/public consultations on simplifying the direct-tax acquis, two ECA Special Reports ([2021](#), [2024](#)). 11 March 2025 Council conclusions on ‘tax decluttering’; formalised in the Commission's 2026 Work Programme.

Source: Report from the Commission to the European Parliament and the Council on the evaluation of Council Directive 2011/16/EU on administrative cooperation in the field of taxation



What the evaluation and consultations concretely flagged on DAC6

DAC6-specific issues

- Low value hallmarks: broad definitions, lack of relevance
- Main benefit test hard to interpret uniformly
- Gold-plating issues
- Divergent penalty regimes across Member States
- Lack of EU guidance

Leading to

- Uneven legal environment: inconsistent application of hallmarks and Annex IV across Member States
- Defensive reporting from the intermediaries and taxpayers concerned
- Excessive administrative burden for stakeholders
- Quality issues and difficulties in exploitation for tax authorities

4. DAC Recast

What changes for DAC6 — DAC RECAST proposal

DAC6: the concrete changes

Pillar Two carve-out

MNE groups already subject to the 15% minimum tax excluded from DAC6 reporting, where no arrangement cuts taxation below that floor.

Hallmark D2 'substance criteria'

Substance criteria to be set via a future Council implementing act (within 5 years); no new Unshell-style hallmarks now.

Deadline extended

Reporting window extended from 30 to 90 days.

Category A hallmarks removed

Confidentiality conditions, contingent fees, standardised documentation — judged too generic, driving defensive over-reporting.

Main benefit test retained

Not amended — the Commission commits instead to issuing interpretive guidance.

Hallmark C1 updated

References the EU Code of Conduct Group list instead of OECD non-cooperative-jurisdiction lists.

Reportable arrangement redefined

Covers only arrangements actually capable of implementation (first step of implementation) — a direct response to CJEU Case C-623/22.

Q&A



Thank you



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