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## DAC 6 / MDR Radar

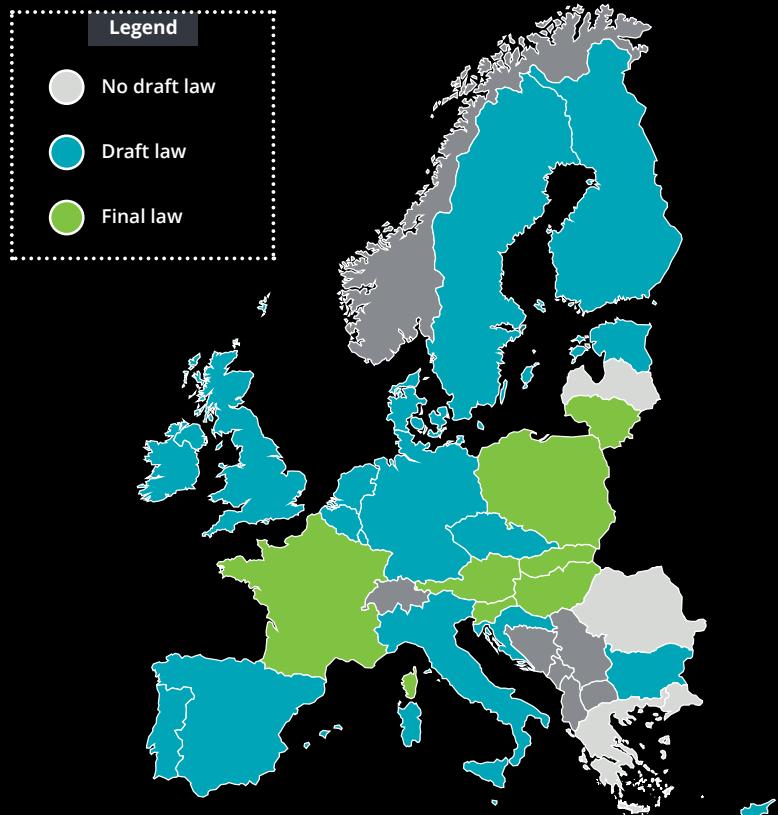
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# Introduction

A new wave of reporting rules will become effective in the European Union on 1 July 2020 with retroactive effect to 25 June 2018.

These new requirements were introduced by the latest amendments to the EU Directive on Administrative Cooperation regarding taxation, commonly known as DAC 6. Disclosure will soon be required by all cross-border arrangements/structures that meet the criteria and hallmarks mentioned in DAC 6.

At this stage, only seven countries have implemented these rules into their domestic legislation while 17 countries have released an implementation draft. Greece, Latvia, Malta, and Romania have not yet unveiled their respective proposals to introduce the DAC 6 package into their landscape.



## Recent developments

### Belgium

On 26 November 2019, the [draft law](#) implementing DAC 6 was submitted to the Belgian Parliament. The penalties applicable to infringements are: 1) if information reported is not complete, a fine from 1,250 EUR to 12,500 EUR; 2) in case of failure/delay to report information, a fine from 5,000 EUR to 50,000 EUR. In case of tax swindle, the amounts may vary from 12,500 EUR to 100,000 EUR.

### Bulgaria

On 16 November 2019, the Council of Ministers formally closed the public consultation related to DAC 6. The government presented the [draft legislation](#) on 18 November 2019 to its parliament.

### Channel Islands

The Islands have committed to the EU Code of Conduct group to introduce mandatory disclosure rules into their legislation by the end of 2019. **Guernsey** Revenue Service has already released [a statement](#) explaining the proposed rules and the **Jersey** government has released a [consultation document](#) on the introduction of a mandatory disclosure regime.

### Croatia

[Draft legislation](#) was published on 31 October.

### Cyprus

The Tax Department launched a public consultation from 22 October 2019 to 12 November 2019 on its [draft law](#) aimed at implementing the mandatory disclosure rules. After the consultation, the draft law should be subject to the formal legislative process and be enacted by the end of the year.

### Denmark

The Minister of Taxation presented a [law proposal](#) transposing DAC 6 to parliament on 6 November 2019.

### Finland

On 31 October 2019, the government presented to parliament the proposal HE 69/2019 transposing Council Directive (EU) 2018/822 of 25 May 2018 relating to reportable cross-border arrangements (DAC6) into Finnish legislation. The draft bill does not contain any significant changes compared to the [earlier discussion draft](#) circulated in June 2019.

### Italy

[Delegation Law No. 117 of 4 October 2019](#) was published in the Official Gazette No. 245 and entered into force on 2 November 2019. This text authorizes and empowers the government to [implement DAC 6](#) into its domestic legislation through a number of legislative decrees that do not require any further approval by parliament.

### Luxembourg

The Chamber of Commerce issued [an opinion](#) about the DAC 6 draft law introduced last summer before the Chamber of Representatives. It is expected that the [proposal](#) will be approved by parliament by mid-December.

### **Netherlands**

The Tax Plan 2020, which includes [legislation implementing Directive 2018/822](#) on mandatory automatic exchange of information in the field of taxation in relation to reportable cross-border arrangements (DAC6), was adopted on 14 November 2019 by the lower house of parliament. An amendment clarifying that whole or partial artificiality

of an arrangement cannot constitute an additional condition to the main benefit test has also been approved. A [draft decree](#) was also submitted to parliament on 31 October. It specifies the manner and time within which the arrangements must be reported. Discussion of the Tax Plan in the upper house of parliament is scheduled for 10 December 2019.

### **Spain**

On 21 October 2019, the Ministry of Finance announced a draft order proposing [three new models](#) (models 234, 235, and 236) on the reporting of certain (cross-border) tax-planning arrangements for public consultation. If approved, these models will assist in the effective [implementation of DAC 6](#). The consultation closed on 11 November.

### **Sweden**

On 25 October 2019, the tax authorities published [guidance](#) on reporting information under DAC6. Parliament is expected to adopt the [pending law proposal](#) transposing the Directive into Swedish law in December 2019.

## Local specificities

### **Estonia**

Includes additional hallmarks regarding arrangements affecting the exchange of information on financial accounts included in the [draft law](#). Individuals can also be considered as intermediaries.

### **France**

The [French legislation](#) exempts permanent establishments of French intermediaries located outside France from the reporting requirement when the arrangement is related to their activity.

### **Germany**

Whereas DAC 6 makes a distinction between promoters and service providers giving aid, assistance or advice, [the draft bill](#) provides currently no reference to the service provider. If an intermediary has a German nexus, it will trigger a reporting obligation in Germany regardless of the relevant taxpayer's residence and where the tax advantage arises.

### **Italy**

Italian FIs for CRS purposes will be considered as intermediaries. Currently, the [draft law](#) provides that the reporting requirements appear partially retroactively to 29 October 2014 (in analogy with OECD MDR). However, this provision could be removed from final draft law.

### **Poland**

Included broadened disclosure requirements including domestic arrangements and all taxes. Hallmarks much broader than DAC6 standards are defined very broadly. A [guidance published on 31 January 2019](#) provides some clarity on the interpretation of the Polish legislation and also explains how the tax authorities anticipate the reporting process will operate.

### **Portugal**

[Proposal](#) includes domestic arrangements and VAT inside its scope, as well as additional hallmarks.

### **Spain**

Individuals can also be considered as intermediaries according to the [current proposal](#).

### **Sweden**

[Proposal](#) includes domestic arrangements inside its scope.

## Useful links

- [Global tax alerts on on tax intermediaries directive](#)
- [Luxembourg Tax Alert on the DAC 6 implementation](#)
- [Text of the Council Directive \(EU\) 2018/822 of 25 May 2018 relating to reportable cross-border arrangements \(DAC6\)](#)
- [Understanding DAC 6 - EU tax directive 2018/822 and its effects on cross-border tax arrangements](#)

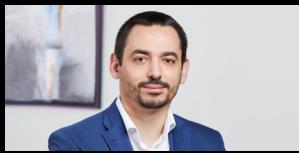
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