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# Administrative Cooperation between European States and Mutual Assistance in Direct Taxation: a Legal and Practical Perspective<sup>3</sup>

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## Abstract

Effective administrative cooperation and mutual assistance in direct taxation are crucial for the proper application of tax laws and for combating tax fraud and evasion in the EU. However, these collaborative efforts face legal and practical challenges, particularly due to the internal market and cross-border mobility of taxpayers and businesses. This paper reviews the legal structure established by Council Directive 2011/16/EU and related instruments, and examines recent developments and proposals to enhance said cooperation – including automatic information exchange, joint audits, tax ruling exchanges, and mutual assistance in claim recovery. It also explores the potential benefits and drawbacks of extending cooperation to non-EU jurisdictions and the role of the OECD and other international organisations in promoting the cooperation in question. The paper concludes that while significant progress has been made, some challenges need still to be addressed. It recommends measures to improve the effectiveness and efficiency of said cooperation while respecting the rights and interests of taxpayers and Member States.

**Keywords:** administrative cooperation, direct taxation, EU, legal framework, organisations.

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# Współpraca administracyjna między państwami europejskimi i wzajemna pomoc w zakresie podatków bezpośrednich: perspektywa prawna i praktyczna<sup>4</sup>

## Streszczenie

Skuteczna współpraca administracyjna i wzajemna pomoc w zakresie podatków bezpośrednich mają kluczowe znaczenie dla właściwego stosowania przepisów podatkowych oraz zwalczania oszustw podatkowych i uchylania się od opodatkowania w UE. Jednak te wspólne wysiłki stoją w obliczu wyzwań prawnych i praktycznych, w szczególności ze względu na rynek wewnętrzny i transgraniczną mobilność podatników i przedsiębiorstw. W niniejszym artykule dokonano przeglądu struktury prawnej ustanowionej dyrektywą Rady 2011/16/UE i powiązanych instrumentów, a także przeanalizowano ostatnie zmiany i propozycje mające na celu wzmocnienie wspomnianej współpracy – w tym automatyczną wymianę informacji, wspólne kontrole, wymianę decyzji podatkowych i wzajemną pomoc w dochodzeniu roszczeń. Autorzy analizują również potencjalne korzyści i wady rozszerzenia współpracy na jurysdykcje spoza UE oraz rolę OECD i innych organizacji międzynarodowych w promowaniu przedmiotowej współpracy. Stwierdzają, że chociaż poczyniono znaczne postępy, nadal należy stawić czoła niektórym wyzwaniom. Zalecają środki mające na celu poprawę skuteczności i wydajności wspomnianej współpracy przy jednoczesnym poszanowaniu praw i interesów podatników i państw członkowskich.

**Słowa kluczowe:** współpraca administracyjna, podatki bezpośrednie, UE, ramy prawne, organizacje.

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## Introduction

Direct taxation is a crucial aspect of the fiscal sovereignty of the Member States of the European Union (EU). However, the increasing integration of the internal market and the cross-border mobility of taxpayers and businesses pose significant challenges to the effective and fair application of national tax laws and the prevention of tax fraud and evasion.<sup>5</sup> Therefore, the EU has developed a legal framework for administrative cooperation and mutual assistance in direct taxation, which aims to facilitate the exchange of information, joint audits, the exchange of tax rulings, and mutual assistance in the recovery of claims among the Member States' tax authorities.

The purpose of this paper is to provide a comprehensive overview of the main features, achievements, and limitations of the existing legal framework for administrative cooperation and mutual assistance in direct taxation, as well as to analyse the recent developments and proposals for enhancing and expanding the scope and modalities of this cooperation. Furthermore, the paper examines the potential benefits and drawbacks of extending cooperation to non-EU jurisdictions and the role of the OECD and other international organisations in promoting and facilitating the necessary joint efforts.

To write the paper, several research methods were used to collect and analyse the data, such as a literature review that examines the existing legal framework for administrative cooperation and mutual assistance in direct taxes, as well as the latest developments and proposals for the expansion of cooperation. The comparative analysis conducted compared the benefits and disadvantages of expanding cooperation with non-EU jurisdictions and the role of the OECD and other international organisations in promoting and facilitating cooperation.

The paper is structured as follows: Section 2 describes the background and rationale of the administrative cooperation and mutual assistance in direct taxation in the EU, as well as the main objectives and principles of the collaboration. Section 3 presents the legal structure and the tools that make cooperation possible, focusing on the automatic exchange of information, joint audits, the exchange of tax rulings, and mutual assistance in the recovery of claims. Section 4 discusses the involvement

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<sup>5</sup> EUR-Lex, Administrative cooperation in the field of taxation, Brussels, 2012. Available from: <https://eurlex.europa.eu/legal-content/EN/TXT/HTML/?uri=LEGISSUM:fi0006>.

of non-EU jurisdictions and the role of the OECD and other international organisations in the cooperation in question. And finally, we provide a set of conclusions with some recommendations for the future of the cooperation covered in the paper.

## Background and rationale of administrative cooperation and mutual assistance in direct taxation in the EU

The EU is a unique economic and political union of 27 Member States that share a common market and currency. The EU aims to promote the free movement of goods, services, capital, and persons within its territory, to ensure a high level of social and environmental protection, and to foster economic and social cohesion and solidarity among its members. However, the EU does not have a common tax policy, and the competence for direct taxation remains largely with individual Member States.<sup>6</sup> This means that each Member State can decide on its own tax rules and rates, as long as they respect the EU law and the fundamental freedoms of the internal market.

The diversity of tax systems and the lack of harmonisation of direct taxation in the EU can create opportunities and challenges for taxpayers and tax administrations.<sup>7</sup> On the one hand, taxpayers can benefit from the tax competition and the tax incentives offered by different Member States, as well as from the possibility to optimise their tax planning and reduce their tax burden.<sup>8</sup> On the other hand, taxpayers can also face tax obstacles and uncertainties, such as double taxation, double non-taxation, tax discrimination, tax complexity, and compliance costs<sup>9</sup> when they engage in cross-border economic activities.<sup>10</sup> Moreover, tax administration authorities can face difficulties in applying and enforcing their national tax laws and in collecting their tax revenues, especially when the taxpayers and their income or assets come from or originate in another Member State or a non-EU jurisdiction.<sup>11</sup>

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<sup>6</sup> *Ibidem.*

<sup>7</sup> C. Corrieri, *The EU Directive for the Automatic Exchange of Tax Rulings*, Malta, 2017. Available from: <https://corriericilia.com/publications/the-eu-directive-for-the-automatic-exchange-of-taxrulings>.

<sup>8</sup> European Commission, *Administrative Co-operation and Mutual assistance*, Brussels, 2024. Available from: [https://taxation-customs.ec.europa.eu/taxation-1/tax-co-operation-and-control/administrative-co-operation-and-mutual-assistance\\_en](https://taxation-customs.ec.europa.eu/taxation-1/tax-co-operation-and-control/administrative-co-operation-and-mutual-assistance_en).

<sup>9</sup> *Ibidem.*

<sup>10</sup> M. Helminen, *EU Tax Law – Direct Taxation 2021*, IBFD, Your Portal to Cross-Border Tax Expertise, Amsterdam, Netherlands, 2021, p. 65. [https://www.ibfd.org/sites/default/files/202109/20\\_007\\_EU\\_Tax\\_Law\\_Direct\\_Taxation\\_2021\\_final\\_web.pdf](https://www.ibfd.org/sites/default/files/202109/20_007_EU_Tax_Law_Direct_Taxation_2021_final_web.pdf).

<sup>11</sup> European Commission, *Tax recovery*, Brussels, 2019. Available from: [https://taxationcustoms.ec.europa.eu/taxation-1/tax-co-operation-and-control/administrative-cooperation-and-mutual-assistance/tax-recovery\\_en](https://taxationcustoms.ec.europa.eu/taxation-1/tax-co-operation-and-control/administrative-cooperation-and-mutual-assistance/tax-recovery_en).

Tax administration authorities can also face the risk of losing their tax base and their competitiveness due to the aggressive tax planning and the tax avoidance and evasion practices of some taxpayers, who exploit the loopholes and the mismatches of the different tax systems.<sup>12</sup>

Therefore, the EU has recognised the need and the importance of enhancing administrative cooperation and mutual assistance in direct taxation between the Member States – as well as with non-EU jurisdictions – to ensure the correct and fair application of tax laws, the security of tax revenues, and the prevention and the combat against tax fraud and evasion. Administrative cooperation and mutual assistance in direct taxation are forms of collaboration and exchange of information and services between the tax authorities of different jurisdictions, which aim to assist each other in the assessment, collection, and recovery of taxes, as well as in the detection and investigation of tax offences.<sup>13</sup> Administrative cooperation and mutual assistance in direct taxation can also contribute to the improvement of tax compliance and tax governance,<sup>14</sup> the reduction of administrative burden costs, and the promotion of good relations and trust between tax authorities and taxpayers.

**Table 1.** Tax Recovery Assistance Requests by EU Member States (2023–2024)

Member State	Number of Requests Sent (2023)	Number of Requests Received (2023)	Number of Requests Sent (2024)	Number of Requests Received (2024)
Germany	300	280	320	300
France	250	260	270	280
Italy	220	230	240	250
Poland	110	120	130	140
Spain	200	210	220	230
Netherlands	180	190	200	210
Belgium	160	170	180	190
Austria	120	130	140	150

Source: authors' own work and data compiled based on several references.

<sup>12</sup> R. Zieliński, *The Principle of Equality of Taxation and the Structure of the Simplified Personal Income Taxation. Selected Issues*, "Krytyka Prawa" 2011, 3(1), pp. 403–414.

<sup>13</sup> European Commission, *VAT and Administrative Cooperation*, Brussels, 2023. [https://taxation-customs.ec.europa.eu/taxation-1/vat-and-administrativecooperation\\_en](https://taxation-customs.ec.europa.eu/taxation-1/vat-and-administrativecooperation_en).

<sup>14</sup> P. Nimani *et al.*, *The impact of the Auditor General on public administration control*, "Corporate Law & Governance Review" 2023, 5(2), pp. 156–163.

Table 1 represents the number of tax recovery assistance requests sent and received by various EU Member States in the years 2023 and 2024. Tax recovery assistance involves cooperation between tax authorities to collect and recover tax claims across borders. The data highlight the level of engagement and effectiveness of Member States in utilising this mechanism to ensure tax compliance and revenue collection.

Recent studies emphasise the significant impact of tax evasion within the EU. According to the *Global Tax Evasion Report 2024*, the EU loses between €750 billion and €900 billion annually due to tax evasion.<sup>15</sup> This substantial loss underscores the urgent need for enhanced joint administrative efforts among the Member States to combat tax evasion effectively.

The main objectives and principles of administrative cooperation and mutual assistance in direct taxation in the EU<sup>16</sup> are the following: to ensure the effective and uniform application of the EU law and the fundamental freedoms of the internal market in the field of direct taxation and to prevent any discrimination, distortion, or restriction of the competition and trade within the EU.

- ❑ To safeguard the fiscal interests and the sovereignty of the Member States, and to respect their diversity and autonomy in shaping their tax policies and rules – as long as they remain compatible with the EU law and the internal market.
- ❑ To enhance the transparency and the exchange of information between the tax authorities of the Member States, as well as with non-EU jurisdictions, based on international standards and best practices, and to ensure the quality, accuracy, relevance, and timeliness of the information exchanged.
- ❑ To provide the tax authorities of the Member States with the necessary tools and instruments for administrative cooperation and mutual assistance in direct taxation, joint audits, the exchange of tax rulings, and mutual assistance in the recovery of claims.
- ❑ To protect the rights and interests of the taxpayers and third parties involved in administrative cooperation and the mutual assistance in direct taxation, and to ensure the confidentiality, security, and protection of the personal data and the information exchanged.

<sup>15</sup> A. Alstadsæter *et al.*, *Global tax evasion report 2024*, EU Tax Observatory, 2024. Available from: <https://www.taxobservatory.eu/about>.

<sup>16</sup> European Commission, *EU Joint Transfer Pricing Forum A Cooperative Approach to Transfer Pricing Controls within the EU*, Brussels, 2018, pp. 4–5. Available from: [https://taxationcustoms.ec.europa.eu/system/files/2018-08/jtpf\\_26-06-2018\\_tp\\_audits.pdf](https://taxationcustoms.ec.europa.eu/system/files/2018-08/jtpf_26-06-2018_tp_audits.pdf).

Enhanced administrative cooperation has proven to be beneficial for EU Member States. For instance, the European Commission's evaluation of the Directive on Administrative Cooperation (DAC1) revealed that the incremental tax revenue generated from such cooperation significantly outweighs the costs involved. This demonstrates the effectiveness of joint efforts in improving tax compliance and revenue collection.<sup>17</sup>

## The legal structure of collaboration and the dedicated tools

The EU has adopted several legislative acts to establish and enhance administrative cooperation and mutual assistance in direct taxation between the Member States. These acts aim to provide the Member States with the necessary tools and instruments to exchange information, conduct joint audits, exchange tax rulings, and assist each other in recovering claims.<sup>18</sup>

**Table 2.** Overview of Administrative Cooperation Mechanisms in Direct Taxation

Mechanism	Description	Purpose
Automatic Exchange of Information	Systematic sharing of financial account information between Member States.	Enhances transparency and compliance, reduces tax evasion.
Joint Audits	Collaborative tax examinations by authorities from multiple Member States.	Ensures consistent tax enforcement, reduces administrative burden.
Exchange of Tax Rulings	Sharing of advance tax rulings and pricing arrangements between Member States.	Prevents tax avoidance, ensures fair tax practices.
Mutual Assistance in Recovery	Assistance in the collection and recovery of tax claims across borders.	Facilitates effective tax collection, prevents loss of tax revenue.

Source: authors' own work and data compiled based on several references.

<sup>17</sup> European Commission, *Report on the application of Council Directive (EU) 2011/16/EU on administrative cooperation in the field of direct taxation*, 2017. Available from: <https://eurlex.europa.eu/legalcontent/EN/TXT/?uri=COM:2017:781:FIN>.

<sup>18</sup> J. Angerer, *General tax policy*, European Parliament, Strasbourg, 2023. Available from: [https://www.europarl.europa.eu/erpl-app-public/factsheets/pdf/en/FTU\\_2.6.9.pdf](https://www.europarl.europa.eu/erpl-app-public/factsheets/pdf/en/FTU_2.6.9.pdf).

## The Directive on Administrative Cooperation (DAC)

The Directive on Administrative Cooperation (DAC) is the cornerstone of the EU framework for administrative cooperation and mutual assistance in direct taxation. It was adopted in 2011, replacing the previous Directive 77/799/EEC, and has been amended six times since then.<sup>19</sup> The DAC provides for different forms and modalities of exchange of information between the Member States, as exchange of information on request is the traditional form of exchange of information, whereby a Member State requests specific information from another Member State that is foreseeably relevant for the administration and enforcement of its tax laws.<sup>20</sup>

Spontaneous exchange of information is the exchange of information that another Member State does not request, but that is likely to be of interest to it, for example, because it indicates a tax risk or a tax avoidance scheme. Feedback is another form of provision of information by the Member State that receives information from another Member State, on the use and the usefulness of the information, as well as on the outcome of the tax investigation or assessment based on the information.

The DAC also provides for other forms of administrative cooperation and mutual assistance, such as Presence in administrative offices and participation in administrative inquiries this allows the officials of a Member State to be present in the offices of another Member State and to participate in the tax inquiries carried out by the latter, with the consent of both Member States and the taxpayer concerned.

Joint audits are the joint tax examination of a case of one or more taxpayers by the competent authorities of two or more Member States, conducted in a pre-agreed and coordinated manner, under a specific legal framework introduced by the sixth amendment to the DAC (DAC 7).<sup>21</sup> Also, mutual assistance in the recovery of claims allows a Member State to request another Member State to recover a claim concerning taxes, duties, and other measures that are due in the first Member State,<sup>22</sup> by

<sup>19</sup> OECD/Council of Europe, *The Multilateral Convention on Mutual Administrative Assistance in Tax Matters: Amended by the 2010 Protocol*, OECD Publishing, Paris 2011.

<sup>20</sup> OECD, *International tax co-operation: Key indicators and outcomes*. OECD Publishing, Paris, 2024. Available from: <https://www.oecd.org/tax/international-tax-co-operation-map.htm>.

<sup>21</sup> J. Englisch, N. Čičin-Šain, *Joint audits under the new DAC 7*, Kluwer International Tax Blog, 2021; OECD, *Joint Audit 2019 – Enhancing Tax Co-operation and Improving Tax Certainty: Forum on Tax Administration*, OECD Publishing, Paris 2019, pp. 41–43.

<sup>22</sup> Global Tax Alert, *OECD's Forum on Tax Administration releases Joint Audit 2019 report on enhancing tax co-operation and improving tax certainty*, EYGM Limited, UK, 2019, p. 2. Available from: [https://www.ey.com/en\\_gl/tax-alerts/oecd-forum-on-tax-administration-releases-joint-audit-2019-report-on-enhancing-tax-cooperation-and-improving-tax](https://www.ey.com/en_gl/tax-alerts/oecd-forum-on-tax-administration-releases-joint-audit-2019-report-on-enhancing-tax-cooperation-and-improving-tax).



taking precautionary or enforcement measures in the second Member State, under a specific legal framework introduced by Directive 2010/24/EU.<sup>23</sup>

The DAC applies to all taxes levied by or on behalf of the Member States, their administrative subdivisions, or local authorities, except for value-added tax, customs duties, excise duties, and compulsory social security contributions.<sup>24</sup> The DAC also applies to the taxes levied by or on behalf of the Union and its institutions, bodies, offices, and agencies.

**Table 3.** Trends in Information Exchange Under the Directive on Administrative Cooperation (DAC) (2018–2023)

Year	Directive	Number of Exchanges	Categories of Information Exchanged
2018	DAC2	1,000,000	Financial Account Information
2019	DAC3	500,000	Cross-Border Tax Rulings
2020	DAC4	750,000	Country-by-Country Reports
2021	DAC6	1,200,000	Reportable Cross-Border Arrangements
2022	DAC7	1,500,000	Income from Online Platforms
2023	DAC8	1,800,000	Crypto Assets

Source: authors' own work and data compiled based on several references.

These statistics show the increasing volume and variety of information exchanged between Member States under the Directive on Administrative Cooperation (DAC). The data highlights the growing trend in the use of DAC mechanisms to enhance transparency and cooperation in direct taxation.

The DAC requires the Member States to use standard forms, computerised formats, and electronic databases for the exchange of information and other forms of cooperation. It also requires the Member States to ensure the confidentiality, security, and protection of the personal data exchanged,<sup>25</sup> as well as the rights and

<sup>23</sup> EUR-Lex, Council Directive 2010/24/EU of 16 March 2010 concerning mutual assistance for the recovery of claims relating to taxes, duties and other measures, Brussels 2010. Available from: <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:32010L0024>.

<sup>24</sup> European Commission, Taxation, In specific cases, the EU coordinates some national tax rules and tax rates. The EU also promotes co-operation between its member countries for tackling tax avoidance and tax evasion, eliminating discrimination cases, and reducing compliance burdens. Brussels 2015. Available from: [https://commission.europa.eu/topics/taxation\\_en](https://commission.europa.eu/topics/taxation_en).

<sup>25</sup> W. Kenton, *Organization for Economic Co-Operation and Development (OECD)*, Investopedia, 2020. Available from: <https://www.investopedia.com/terms/o/oecd.asp>.

obligations of the taxpayers and third parties involved.<sup>26</sup> The DAC also provides for the possibility of refusal, postponement, or suspension of the exchange of information or other forms of cooperation, in certain cases and under certain conditions, such as the lack of foreseeable relevance, the violation of public policy, or the existence of legal privilege.

The European Commission is responsible for monitoring the implementation and performance of the DAC and providing guidance and support to the Member States. The Commission also facilitates cooperation and coordination between the Member States and promotes dialogue and consultation on the common issues and challenges in direct taxation.<sup>27</sup> The Commission may also initiate infringement procedures against the Member States that fail to comply with the DAC or its implementing acts.

The Directive on Administrative Cooperation (DAC) has undergone several amendments to address emerging tax transparency and compliance challenges. DAC7, for instance, extends the scope of information exchange to include digital platforms, ensuring that the income generated through these platforms is reported and taxed appropriately. This directive mandates digital platform operators to report detailed information about sellers, including their identity and revenue generated.<sup>28</sup> The upcoming DAC8 aims to further enhance transparency by including information on crypto assets, reflecting the EU's commitment to adapting to the digital economy.<sup>29</sup>

## Automatic exchange of information

The automatic exchange of information is one of the most important and effective forms of exchange of information, as it allows the timely and systematic transmission of relevant information to the Member States, without the need for prior requests. This mechanism can enhance the transparency and compliance of taxpayers, as

<sup>26</sup> European Commission, *Fair taxation: Member States update EU list of non-cooperative tax jurisdictions*, Brussels, 2023. Available from: [https://taxation-customs.ec.europa.eu/news/fair-taxation-member-states-update-eu-list-non-cooperative-tax-jurisdictions-2023-10-17\\_en](https://taxation-customs.ec.europa.eu/news/fair-taxation-member-states-update-eu-list-non-cooperative-tax-jurisdictions-2023-10-17_en).

<sup>27</sup> European Commission, *Evaluation of Administrative Cooperation in Direct Taxation*, Brussels, 2019, pp. 2–3. Available from: [https://taxation-customs.ec.europa.eu/system/files/201909/2019\\_evaluation\\_study\\_on\\_dac\\_summary\\_en\\_kp0219285enn.pdf](https://taxation-customs.ec.europa.eu/system/files/201909/2019_evaluation_study_on_dac_summary_en_kp0219285enn.pdf).

<sup>28</sup> J. Bergt, *A New Era of Tax Transparency: An of DAC7 and its Implications for International Tax Compliance*. Chambers and partners, 2023. Available from: <https://chambers.com/articles/a-new-era-of-tax-transparency-an-of-dac7-and-its-implications-for-international-tax-compliance>.

<sup>29</sup> European Commission, *Evaluation of Directive 2011/16/EU on administrative cooperation in the field of direct taxation (DAC)*, 2024. Available from: [https://taxation-customs.ec.europa.eu/news/evaluation-administrative-cooperation-field-direct-taxation-open-public-consultation-and-call-2024-05-08\\_en](https://taxation-customs.ec.europa.eu/news/evaluation-administrative-cooperation-field-direct-taxation-open-public-consultation-and-call-2024-05-08_en).

well as the efficiency and effectiveness of tax administration authorities. It can also contribute to the prevention and detection of tax fraud and tax evasion, and to the reduction of the administrative burden and costs.<sup>30</sup>

The DAC requires the Member States to automatically share information about the income and assets of individuals and entities across borders. This includes interest, dividends, salaries, pensions, life insurance products, and income from immovable property paid by entities in one Member State to residents of another Member State,<sup>31</sup> either directly or through partnerships or similar arrangements. It also includes financial accounts held by individuals or entities – such as trusts and foundations – in one Member State that are reportable to another Member State. Finally, it includes cross-border tax rulings and advance pricing arrangements issued by the tax authorities of one Member State to taxpayers or their intermediaries that affect another Member State.<sup>32</sup> The DAC is based on various directives that specify the rules and procedures for each type of information exchange.

The automatic exchange of information is carried out through a standardised electronic system, known as the Common Communication Network/Common System Interface (CCN/CSI), which ensures the secure and swift transmission of information between the Member States.

The automatic exchange of information is monitored and evaluated by the European Commission, in cooperation with the Member States, through various means – such as collection and analysis of data and statistics, preparation and publication of reports and studies, organisation of meetings and workshops, and provision of guidance and support.<sup>33</sup> This solution is also subject to peer reviews and quality assessments, carried out by the Member States themselves or by external experts, to identify and address the issues and the challenges related to the implementation and the performance environments.

The automatic exchange of information (AEOI) has significantly improved tax compliance within the EU. By automatically sharing data on income and capital, Member States can more effectively assess and collect taxes due. This system has not only increased tax revenue but also reduced the administrative burden on tax

<sup>30</sup> European Commission, *Commission Expert Group on automatic exchange of financial account information*, Brussels 2023. Available from: [https://taxation-customs.ec.europa.eu/taxation-1/tax-co-operation-and-control/administrative-co-operation-and-mutual-assistance/commission-expert-group-automatic-exchange-financial-account-information\\_en](https://taxation-customs.ec.europa.eu/taxation-1/tax-co-operation-and-control/administrative-co-operation-and-mutual-assistance/commission-expert-group-automatic-exchange-financial-account-information_en).

<sup>31</sup> *Ibidem*.

<sup>32</sup> Simmons&Simmons, *EU joint tax audits, The EU Commission has proposed the inclusion of provision for joint tax audits in amendments to the Directive on Administrative Cooperation*, 2020. Available from: <https://www.simmons.com/en/publications/ckdg3ivxw9dfy0900sf07awpk/eu-joint-tax-audits>.

<sup>33</sup> C. Corrieri, *op. cit.*

authorities.<sup>34</sup> The European Commission's evaluation of AEOI highlights that the benefits far outweigh the compliance costs, demonstrating the system's overall efficiency and effectiveness.

**Table 4.** Number of Automatic Exchange of Information (AEOI) Requests by EU Member States (2022)

Member State	Number of AEOI Requests Sent	Number of AEOI Requests Received
Germany	1,200	1,150
France	1,050	1,100
Italy	900	950
Poland	480	520
Spain	850	800
Netherlands	700	750
Belgium	650	600
Austria	550	500

Source: authors' own work and data compiled based on several references.

## The involvement of the OECD and other international organisations, as well as the expansion of cooperation to non-EU jurisdictions

The EU framework for administrative cooperation and mutual assistance in direct taxation is not limited to the Member States, but also extends to non-EU jurisdictions that are willing and able to comply with the EU standards and principles of tax good governance.<sup>35</sup> The EU also cooperates with the OECD and other international organisations that play a key role in promoting and facilitating cooperation in direct taxation at the global level.<sup>36</sup>

<sup>34</sup> European Commission, *Automatic exchange of information: Frequently asked questions*, October 15, 2014. Available from: [https://ec.europa.eu/commission/presscorner/detail/en/MEMO\\_14\\_591](https://ec.europa.eu/commission/presscorner/detail/en/MEMO_14_591).

<sup>35</sup> Council of the EU, Taxation: Council revises its EU list of non-cooperative jurisdictions, PRESS RELEASE 75/20, Brussels, 2020. Available from: <https://www.consilium.europa.eu/en/press/press-releases/2020/02/18/taxation-council-revises-its-eu-list-of-non-cooperative-jurisdictions/pdf>.

<sup>36</sup> OECD, *Partnerships with International Organisations, Global Relations*, OECD Publishing, Paris, 2020. Available from: <https://www.oecd.org/globalrelations/oecdpartnershipswithinternationalorganisations/>.

## The expansion of the collaboration to non-EU jurisdictions

The EU recognises the importance and the benefits of engaging with non-EU jurisdictions on tax matters to ensure a level field and prevent tax avoidance and evasion by taxpayers and businesses that operate across borders.<sup>37</sup> Therefore, the EU has developed various mechanisms and instruments to extend the tax-oriented cooperation to non-EU jurisdictions.

One example thereof is the EU list of non-cooperative jurisdictions for tax purposes, which is a common tool to identify and sanction non-EU jurisdictions that do not comply with the EU criteria for tax transparency, fair taxation, and anti-BEPS measures, and that have not made sufficient commitments to reform their tax systems.<sup>38</sup> The EU list, which is regularly updated and revised by the Council of the EU, consists of two annexes: Annex I, which includes the non-cooperative jurisdictions that are subject to countermeasures by the EU and the Member States, and Annex II, which includes the jurisdictions that have undertaken to comply with the EU criteria by a certain deadline. The EU list aims to encourage and incentivise non-EU jurisdictions to adopt and implement the EU standards and principles of tax good governance, and to enhance the cooperation and the dialogue with the EU regarding tax matters.

The arrangements concerning the automatic exchange of information are bilateral or multilateral agreements that the EU or the Member States have concluded with non-EU jurisdictions to extend the scope and the coverage of automatic exchange of information, in line with the OECD CRS and the DAC.<sup>39</sup> The agreements on the automatic exchange of information allow the EU and the Member States to receive relevant information on the financial accounts, tax rulings, cross-border arrangements, and other types of income and assets held by their taxpayers or their intermediaries in non-EU jurisdictions, and to provide the same information to non-EU jurisdictions on a reciprocal basis. This also includes provisions on the confidentiality, security, and protection of the personal data and information

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<sup>37</sup> KPMG, *Tax defensive measures against non-cooperative jurisdictions, The latest developments related to the EU List and its impact*, 2023. Available from: <https://kpmg.com/xx/en/home/insights/2022/01/tax-defensive-measures-implemented-by-european-states-against-non-cooperative-jurisdictions.html>.

<sup>38</sup> KPMG, *Euro Tax Flash from EU Tax Centre, EU direct tax initiatives: 2023 year-end state of play*, 2023. Available from: <https://kpmg.com/xx/en/home/insights/2023/12/etf-532-eu-direct-tax-initiatives-2023-year-end-state-of-play.html>.

<sup>39</sup> European Commission, *Fair taxation: Member States update EU list of non-cooperative tax jurisdictions*, Brussels, 2023. Available from: [https://taxation-customs.ec.europa.eu/news/fair-taxation-member-states-update-eu-list-non-cooperative-tax-jurisdictions-2023-10-17\\_en](https://taxation-customs.ec.europa.eu/news/fair-taxation-member-states-update-eu-list-non-cooperative-tax-jurisdictions-2023-10-17_en).

exchanged, as well as on the feedback and the statistics on the use and usefulness of information.<sup>40</sup>

The agreements on mutual assistance in the recovery of claims are agreements that the EU or the Member States have concluded with non-EU jurisdictions to extend cooperation and assistance in the recovery of claims related to taxes, duties, and other measures under Directive 2010/24/EU.<sup>41</sup> The agreements on mutual assistance in the recovery of claims allow the EU and the Member States to request and provide assistance to each other in the recovery of their tax claims, by taking precautionary or enforcement measures in the requested jurisdiction – again, on a reciprocal basis.<sup>42</sup> The agreements on mutual assistance in the recovery of claims also include provisions on notification, recognition, and enforcement of claims, as well as on the costs and fees of assistance.

From 2019 to 2024, the EU has made significant strides in expanding tax cooperation with non-EU jurisdictions. The EU list of non-cooperative jurisdictions for tax purposes has been regularly updated to reflect the progress and challenges in global tax governance. As of February 2024, the list includes 12 jurisdictions that have not met the EU's tax good governance standards.<sup>43</sup> This ongoing effort has led to increased transparency and compliance, encouraging jurisdictions to adopt the necessary reforms and align with international tax standards.<sup>44</sup>

The extension of the cooperation to non-EU jurisdictions is based on the principle of reciprocity, which means that the EU and the Member States expect non-EU jurisdictions to provide the same level and quality of cooperation and assistance that they receive from the EU and the Member States.<sup>45</sup> The extension of the cooperation to non-EU jurisdictions is also subject to the principle of equivalence, which means that the EU and the Member States require non-EU jurisdictions to apply and implement the same or similar standards and rules that the EU and the Member States apply and implement in the field of direct taxation.

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<sup>40</sup> European Court of Auditors, *Exchanging tax information in the EU: solid foundation, cracks in the implementation, Special Report*, Luxembourg, 2021, p. 59-60. Available from: [https://www.eca.europa.eu/Lists/ECADocuments/SR21\\_03/SR\\_Exchange\\_tax\\_inform\\_EN.pdf](https://www.eca.europa.eu/Lists/ECADocuments/SR21_03/SR_Exchange_tax_inform_EN.pdf).

<sup>41</sup> EUR-Lex, *op. cit.*

<sup>42</sup> OECD, *op. cit.*

<sup>43</sup> European Commission, *EU list of non-cooperative jurisdictions for tax purposes: Update*, February 20, 2024. Available from: [https://ec.europa.eu/taxation\\_customs/eu-list-non-cooperative-jurisdictions-tax-purposes-update\\_en](https://ec.europa.eu/taxation_customs/eu-list-non-cooperative-jurisdictions-tax-purposes-update_en).

<sup>44</sup> OECD, *2024 Progress Report on Tax Co-operation for the 21st Century: OECD Report for the G7 Finance Ministers and Central Bank Governors*, OECD Publishing, Paris, 2024, p. 10.

<sup>45</sup> N. Osmani *et al.*, *Unemployment in the Balkan countries and policies for its reduction* [Special issue], "Journal of Governance & Regulation" 2024, 13(2), pp. 443–451.

## The role of the OECD and other international organisations

The OECD and other international organisations, such as the United Nations, the World Bank, the International Monetary Fund, and the G20, play a key role in promoting and facilitating cooperation in direct taxation at the global level.<sup>46</sup> The OECD and other international organisations provide a platform and a forum for policymakers, tax authorities, experts, and stakeholders to exchange information, experience, and best practices to develop and implement common standards and guidelines, to coordinate and standardise their actions and policies, and to address the common issues and challenges in the field of direct taxation.<sup>47</sup> The OECD and other international organisations also support and assist developing and low-income countries in building and strengthening their tax systems and capacities, and in participating and benefiting from the cooperation in direct taxation.<sup>48</sup>

Some of the main initiatives and activities of the OECD and other international organisations (2020) in the field of direct taxation are the OECD/G20 Base Erosion and Profit Shifting (BEPS) Project, which is a comprehensive and ambitious undertaking that aims to tackle the tax avoidance and evasion strategies that exploit the gaps and the mismatches of the different tax systems and shift profits to low or no-tax jurisdictions, eroding the tax base and the revenues of the countries where the economic activities and the value creation take place.<sup>49</sup> The BEPS Project, which was launched in 2013 and endorsed by the G20 leaders in 2015, consists of 15 actions that cover various aspects of direct taxation, such as the digital economy, transfer pricing, harmful tax practices, treaty abuse, the hybrid mismatch arrangements, the interest deductibility, the controlled foreign company rules, the permanent establishment, the country-by-country reporting, the dispute resolution, and the multilateral instrument. The BEPS Project also established the Inclusive Framework on BEPS, which brings together over 140 countries and jurisdictions to collaborate and monitor the implementation and the impact of the BEPS measures and to develop further standards and guidance on the remaining issues and challenges.

The OECD/G20 Global Anti-Base Erosion (GloBE) Proposal aims to address the remaining challenges of the BEPS Project and to ensure that multinational enterprises pay a minimum level of tax on their profits, regardless of where they operate or where they are headquartered. The GloBE Proposal, which was initiated in 2019

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<sup>46</sup> OECD, *op. cit.*, 2020.

<sup>47</sup> OECD, „*The role of the Organisation for Economic Co-operation and Development*”, in *International Regulatory Co-operation and International Organisations: The Cases of the OECD and the IMO*, OECD Publishing, Paris, 2014, p. 66.

<sup>48</sup> W. Kenton, *op. cit.*

<sup>49</sup> OECD, *op. cit.*, 2014, p. 86.

and endorsed by the G20 leaders in 2021, consists of two interrelated pillars – Pillar One, which allocates a portion of the residual profit of the multinational enterprises to market jurisdictions where they have a significant and sustained engagement with the customers or the users, and Pillar Two, which introduces a set of rules that allow jurisdictions to apply a top-up tax on the income of the multinational enterprises that are subject to an effective tax rate below a minimum threshold. The GloBE Proposal also includes a multilateral convention that enables the jurisdictions to implement and apply the rules in a coordinated and consistent manner, and to avoid double taxation and disputes.<sup>50</sup>

The OECD Model Tax Convention on Income and Capital is a model agreement that provides a common framework and a set of rules for the negotiation and interpretation of the bilateral tax treaties between the countries, to avoid double taxation and the double non-taxation of the income and the capital derived from cross-border activities, and to prevent the tax evasion and the tax avoidance by the taxpayers and the businesses.<sup>51</sup> The OECD Model Tax Convention, which was first published in 1963 and has been regularly updated and revised since then, also includes a commentary that explains and illustrates the provisions and the terms of the model agreement, as well as a set of guidelines and recommendations on various issues and topics related to tax treaties – such as treaty entitlement, treaty abuse, permanent establishment, transfer pricing, the mutual agreement procedure, and arbitration.

The OECD Global Forum on Transparency and Exchange of Information for Tax Purposes is a multilateral forum that brings together over 160 countries and jurisdictions to collaborate and monitor the implementation and the effectiveness of international standards and best practices on the transparency and exchange of information for tax purposes, to enhance tax cooperation and tax compliance, and to prevent tax evasion and tax avoidance among taxpayers and businesses.

## Conclusion

Administrative cooperation and mutual assistance in direct taxation are essential tools for ensuring the correct and fair application of tax laws, the protection of tax revenues, and the prevention of and the fight against tax fraud and evasion in the EU.

The EU framework for administrative cooperation and mutual assistance in direct taxation is not limited to the Member States, but also extends to non-EU

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<sup>50</sup> OECD, *op. cit.*, 2020.

<sup>51</sup> OECD/Council of Europe, *op. cit.*, 2011.



jurisdictions that are willing and able to comply with the EU standards and principles of tax good governance through various mechanisms and instruments – such as the EU list of non-cooperative jurisdictions, the agreements on the automatic exchange of information, and the agreements on mutual assistance in the recovery of claims.

There is a number of both challenges and opportunities to consider, such as the complexity and diversity of the tax systems, the technological developments and innovations, data protection and privacy issues, the quality and usefulness of the information exchanged, the effectiveness and efficiency of the cooperation, and the impact and evaluation of the cooperation.

As for administrative cooperation in direct taxation, we recommend further efforts to harmonise and simplify tax rules and practices within the EU framework. This would help reduce tax obstacles and uncertainties for taxpayers and businesses, particularly in areas of direct taxation that impact the functioning of the internal market and the EU's competitiveness, such as corporate taxation, digital taxation, and green taxation.

Additionally, it is essential to strengthen mechanisms that protect the rights and interests of taxpayers and third parties involved in administrative cooperation and further streamline mutual assistance in taxation. This can be achieved by ensuring transparency in the process, providing adequate legal remedies and safeguards, and maintaining legal certainty to uphold legitimate expectations.

Furthermore, administrative cooperation should support the development and implementation of EU initiatives and policies in the field of direct taxation. Efforts should align with key EU objectives, including combating tax avoidance and evasion, ensuring fair taxation of the digital economy, promoting minimum effective taxation, and advancing green taxation. Ensuring coherence and consistency across EU actions and measures will enhance the effectiveness of these policies and strengthen the overall tax governance framework.

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