Finnwatch ry's submission to
European Commission
28th October 2026

Subject: Commission's Proposal for DAC Directive Revision

Introduction

Finnwatch is a Finnish business and human rights NGO investigating sustainability of business operations globally. We appreciate the opportunity to present our views for the European Commission's consultation on the proposed DAC Directive revisions. We are also happy to provide additional information if needed (Tax Specialist Saara Hietanen, saara.hietanen@finnwatch.org / +358 44 240 8500).

In our submission, we focus on the proposals aiming to amend the rules related to reportable cross-border arrangements (DAC6). In our opinion, the proposed changes would severely undermine the effectiveness of the regulation, and following this, the changes should not be made.

Exempting Pillar Two entities from reporting cross-border arrangements

The European Commission has proposed several amendments to the reporting of cross-border arrangements. Among other things, the Commission proposes to entirely exempt so-called Pillar Two entities – those subject to international minimum tax rules – from the reporting obligations. The Commission justifies this exclusion by claiming that the minimum tax would neutralize any tax benefit gained through such an arrangement. Furthermore, the Commission argues that Pillar Two entities are already subject to closer scrutiny by tax authorities.

However, Pillar Two rules only ensure that the group's profits (aggregated on jurisdiction level) are subject to a minimum of 15 % effective tax rate within each jurisdiction. They do not neutralize tax benefits derived from particular arrangements. A corporation could significantly lower its tax rate through a cross-border arrangement and still reach the required 15 % tax rate. Even in such cases, the tax benefit achieved can be substantial. Moreover, the assumption that arrangements involving Pillar Two entities would inevitably come to light through enhanced tax oversight, even without DAC6 reporting, is implausible, given the sheer size of these companies and the volume of their transactions. Consequently, the Commission's rationale for excluding Pillar Two entities is difficult to justify.

Removing category A hallmarks

There is also a proposal to narrow down the scope of reportable arrangements. The proposal would remove all "generic hallmarks" (those falling under category A) from the Directive. These include the confidentiality condition (e.g. an agreement between parties not to disclose to authorities how a tax benefit is achieved), fees linked to the size of the tax benefit achieved, and standardized structures – referring to arrangements that can easily be

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utilized by multiple taxpayers without significant modification. These hallmarks would no longer lead to an arrangement being classified as reportable. This would exempt, for example, arrangements that are primarily structured to obtain a tax benefit even when the fee of the tax consultant is directly dependable on the size of a tax benefit achieved. It is difficult to argue that the risk of tax avoidance associated with such arrangements is low enough to justify exempting them from reporting requirements.

The scope of reportable arrangements would also be narrowed by ensuring that merely making an arrangement available no longer triggers a reporting obligation for the service provider. Consequently, the reporting obligation would apply only to arrangements that have already been implemented. This undermines the authorities' ability to obtain timely information regarding new potentially aggressive arrangements.

DAC needs corrective measures, not dilution

The DAC Directive proposal reveals that representatives from the business sector have strongly advocated for both the exclusion of Pillar Two entities and the removal of category A hallmarks. A review of the justifications for these changes, now proposed by the Commission, suggests that the wishes presented by lobbyists have been given disproportionate weight. At Finnwatch, we think that these changes that further dilute the effectiveness of DAC6 should not be taken forward.

Instead of weakening the regulation, the DAC6 rules should be further developed by incorporating obligations that facilitate the use of this data for the development of tax legislation. The tax authorities in each Member State should be obliged to compile an annual, anonymized summary of reported arrangements for the member state's policymakers and those responsible for drafting tax legislation. In this way, information on reported arrangements could be utilized not only for tax enforcement but also for the development of national tax laws. Furthermore, the summary should be made available to the general public. Such a change would likely multiply the benefits derived from the reporting, as it would create a better foundation for closing loopholes in tax legislation that currently allow for unjustified tax advantages.

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