

Why do we check the transposition of DAC?

The system of exchange of information will not work if not all MS put in place the necessary rules and do not cooperate with other MS.

Commission's role in ensuring transposition and implementation of secondary EU law (1)

Article 17 of the Treaty on European Union:

It shall ensure the application [...] of measures adopted by the institutions pursuant to [the Treaties].

Commission's role in ensuring transposition and implementation of secondary EU law(2)

It (the Commission) shall oversee the application of Union law under control of the Court of Justice of the European Union.

How does the Commission do it?

Two types of transposition checks:

completeness check

conformity check.

Completeness check

Did a Member State notify the Commission of all the necessary provisions for transposing the Directive?

Conformity check

Does the transposing legislation correspond to the Directive?



The 2016 Commission Communication

Communication from the Commission
"EU Law: Better Results through Better Application":

A promise to carry out
completeness checks within 6 months

conformity checks within 2 years.

Political attention

The PANA Committee and the Lamassoure Committee of the European Parliament follow the transposition checks closely since DACs increase tax transparency.

Consistent treatment of MS

We carry out the transposition checks in packages.

No MS will receive more time than others.

Transposition deadlines for DAC1- DAC5

DAC1(2011/16/EU):	31 December 2012
DAC1 (Article 8):	31 December 2014
DAC2 (2014/107/EU):	31 December 2015
DAC3 (2015/2376/EU):	31 December 2016
DAC4 (2016/881):	4 June 2017
DAC5 /2016/1164/EU):	31 December 2017

Transposition seminars with MS

DG TAXUD tries to facilitate the transposition of DACs by MS.

e.g. Two FISCALIS seminars on how to transpose DAC2 held with Member States.

Transposition approaches by MS

Transposition varies by Member States.

e.g. General clauses, reference to the text of the Directive, detailed copy-paste.

If nevertheless not transposed/notified in time

If MS do not notify the transposing measures in time -

- a LFN

- a RO

to MS for non-communication.

If nevertheless not transposed/notified in time

If a MS does not notify the measures even then:

Referral to ECJ, asking for penalty and/or lump sum payment.

If Directive not correctly transposed

The same procedure without penalties.

State of play of DAC 1

The transposition of DAC 1 is complete with the exception of one MS (Estonia).

State of play for DAC2

All but 8 MS have by now notified their transposition measures.

COM has opened infringement procedures for all MS who failed to notify on time. These procedures will be closed once the MS concerned has notified and COM finds the domestic law complete.

State of play for DAC2

Ongoing procedures currently for: Cyprus, Czech Republic, Estonia, Greece, Croatia, Hungary, Malta, Poland and Slovakia.

Completeness and conformity checks ongoing.

State of play of DAC3

All but 2 MS have notified the transposition measures by now.

COM has opened infringement procedures for those MS who failed to notify on time.

These procedures will be closed once the MS concerned has notified and COM finds the domestic law complete.

State of play of DAC3

Ongoing procedures currently for: Belgium, Bulgaria, Cyprus, Estonia and Portugal.

Completeness and conformity checks ongoing.

State of play of DAC4

All but 1 Member State have notified COM of their transposition measures by now.

Ongoing infringement proceedings against 6 Member States that did not notify: Belgium, Bulgaria, Czech Republic, Cyprus, Greece and Portugal.

State of play of DAC4

These procedures will be closed once the MS concerned has notified and COM finds the domestic law complete.

Completeness and conformity checks ongoing.

State of play of DAC5

The transposition deadline is 31/12/2017.

We are waiting for the notifications.



Thank you for your attention!