



**BRUSSELS | 12 AUGUST 2024**

## **CJEU: DAC6 Mandatory Reporting Waiver Applies to Lawyers Only**

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In the [judgment](#) of the Court of Justice of the European Union (CJEU) in case C-623/22 (*Belgian Association of Tax Lawyers and Others*), concerning the validity of Council Directive 2011/16/EU of 15 February 2011 on administrative cooperation in the field of taxation and repealing Directive 77/799/EEC, as amended by Council Directive (EU) 2018/822 of 25 May 2018 (“DAC6”), the Court clarified its previous judgment on the matter (Case C-694/20, *Orde van Vlaamse Balies* of 8 December 2022). The Court confirmed that professional privilege applies only in respect of lawyers within the meaning of EU law (practicing lawyers in an EU Member state or registered in another EU Member state by virtue of EU fundamental freedoms). The waiver from disclosure which is applicable to lawyers, therefore, does not apply with respect to other tax professionals who are non-lawyers.

The issue under scrutiny in this judgment was the compliance with primary EU law of the Directive DAC6, which establishes mandatory disclosure rules in the EU. The case follows on from the conclusions reached by the Court in Case C-694/20, *Orde van Vlaamse Balies and Others*, where it was established that some provisions of DAC6 are contrary to primary EU law (Article 7 of the Charter of Fundamental Rights of the European Union which protects the confidentiality of private correspondence and allows for more protection of exchange between lawyers and their clients under legal professional privilege). The judgment in Case C-14/23 by the Court of Justice of the European Union (CJEU) addresses the compatibility of Directive 2018/822, which mandates the reporting of certain cross-border tax arrangements, with fundamental rights guaranteed by the EU Charter of Fundamental Rights. The case examines whether the Directive infringes on the right to respect for private life (Article 7 of the Charter) and the protection of personal data (Article 8 of the Charter).

The Court ruled that the obligations imposed on intermediaries to report these

arrangements do not violate these fundamental rights, provided that appropriate safeguards are in place. The judgment emphasises that the Directive aims to enhance tax transparency and combat tax avoidance and evasion within the EU. It ensures that the data protection principles are adhered to, and that the information reported is proportionate and necessary for the intended purposes. The CJEU concluded that the Directive's provisions are justified and balanced against the need to protect taxpayers' privacy rights, affirming that the measures are appropriate for achieving the Directive's objectives without excessively infringing on fundamental rights.

This ruling supports the EU's ongoing efforts to enhance tax transparency and cooperation among Member States while maintaining a high standard of data protection. Under this judgment, the obligation to report rests with all professionals who are non-lawyers within the meaning of EU law (i.e. Article 1(2)(a) of Directive 98/5); i.e. legal professional privilege allows for a reporting waiver only to lawyers who practice law in the EU Member state of establishment or another EU Member state by virtue of EU fundamental freedoms.

## **EU Consultation on Proposed Template & Electronic Format for Country-by-Country Reporting**

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The EU Commission has launched a [public consultation](#) on a legislative initiative to introduce a common template and electronic format for annual country-by-country reporting obligations for large multinational corporations operating in the EU, who are required to disclose information on corporate tax paid in a given financial reporting year.

The draft implementing regulation aims to standardise the format for filing the information across the EU Member states, and improve tax transparency, for public country-by-country reports for financial years commencing on or after 1 January 2025. The draft legislation provides a template for the country-by-country report, standards for the communication of the data, requirements for filing the report and on the scope of the information to be disclosed.

Input on the draft implementing regulation can be provided via the [Have your Say](#) portal until 29 August 2024.

## **Programme Online: CFE's 2024 Conference on Tax Advisers' Professional Affairs | Ljubljana | 19 September 2024**

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CFE Tax Advisers Europe will hold its [17th European Conference on Tax Advisers' Professional Affairs](#), co-hosted by Slovenian and Serbian Member Organisations DSZS - Davčno svetovalna zbornica Slovenija & UPSS - Udruzenje poreskih savetnika Srbije, on the topic of "*Global Policy Trends : AI & The Future of Tax Planning & New EU Rules on Anti-Money Laundering*". The conference will take place on Thursday, 19 September 2024, from 10:00 am - 16:00 pm, at the Grand Plaza Hotel Ljubljana.

The conference will bring together experts and professionals at the forefront of these two important topics to address global critical policy trends: the future of tax planning with the advance of AI, the role of professional standards in safeguarding the integrity of the tax profession and the fiscal system in an era of extraordinary computational capabilities of AI. A separate panel will elaborate on the new EU rules on anti-money laundering and terrorist financing, and their impact for tax professionals, accountants, auditors.

The conference programme and registration link are available [here](#).

## **EU, US & UK Regulators' Joint Statement on AI Competition Risks**

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In a [joint statement](#) signed by Jonathan Kanter, U.S. Assistant Attorney General, U.S. Department of Justice; Lina M. Khan, Chair of the U.S. Federal Trade Commission, Margrethe Vestager, Vice-President of the European Commission, EU, Sarah Cardell, Chief Executive Officer, U.K. Competition and Markets Authority, the three international regulators have issued a joint statement outlining AI competition risks, as well as principles that can help protect competition in the AI ecosystem.

The statement aims to ensure that regulators align on the principles of effective competition and level playing field for consumers and businesses in AI, embedded in competitive markets which are conducive to growth and innovation. The document also identifies the risk from AI competition and sets out key principles for protection of competition in AI eco-systems, such as fair dealing, interoperability and consumer choice. For its part, the U.S. Federal Trade Commission has noted that it works with counterpart agencies to promote fair competition and consumer protection, but makes it clear that the U.S. decision-making will remain independent and sovereign.

## University of Silesia & Silesian Branch of Polish National Chamber of Tax Advisers' Second International Tax Conference: "Taxes of Tomorrow" - 20 September 2024

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The Silesian Branch of the Polish National Chamber of Tax Advisers, in cooperation with the Faculty of Law and Administration of the University of Silesia in Katowice are hosting their [Second International Tax Conference](#) on the topic of "Taxes of Tomorrow: Directions of tax law development in European countries". It will be held online on 20 September 2024.

The Conference will focus on identifying and delineating the development directions of tax law in EU countries, with the aim to develop model legislative solutions that these countries have implemented in response to current challenges and the evolving tax landscape. The primary objective is to assess the priorities of European legislators in shaping tax law, explore the legislative approaches taken by individual countries to address these issues, and evaluate the resultant effects. The conference will be conducted entirely in English.

Further information and registration for those wishing to participate is available [here](#).

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