EU CYBER VAT

Fighting cyber-VAT fraud in the EU: a comparative criminological and criminal law study

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Comparative Study

Deliverable 2.2

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EU CYBER VAT - Comparative study

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1. Introduction

1.1 Background

Value Added Tax (VAT) fraud has long been a significant issue **affecting the economies of both individual countries and the European Union** (EU)[1]. As one of the most crucial sources of public revenue, VAT is essential for financing public services, sustaining the EU budget, and facilitating cross-border trade in the EU internal market. Despite its importance, VAT fraud remains a persistent challenge that undermines the financial integrity of the EU[2] and the Member States (MSs). In fact, VAT fraud is often seen as a serious threat to public finances due to its widespread occurrence and its capacity to distort the proper functioning of the tax system.

In response to this growing problem, the EU established the European Public Prosecutor's Office (**EPPO**) in 2020, which became operational in July 2021, to tackle large-scale financial crimes, affecting the EU's financial interests, such as VAT fraud, money laundering, and the misuse of EU funds, including VAT fraud. EPPO has specific thresholds for its jurisdiction in relation to the financial impact of criminal offence. These limits are set out in Council Regulation (EU) 2017/1939, which establishes the EPPO. With regards to VAT fraud, EPPO's competence for cross-border VAT fraud if the estimated damage exceeds €10 million. This very high threshold reflects the significant financial impact of large-scale VAT fraud schemes, such as carousel fraud, on the EU's financial interests. Indeed, VAT fraud can be perpetrated by individuals on an occasional basis, by companies with established operations and substantial turnover, but it clearly becomes more significant when committed by **organised crime groups**. According to Europol, fraud in general — which includes VAT fraud — represents the second most common activity of the most threatening criminal networks: eighteen of the most dangerous criminal networks specialize in VAT fraud, including carousel fraud, and typically maintain end-to-end control over the entire criminal process.

[1] In the context of VAT fraud, there are numerous contributions coming from a wide range of stakeholders, including academic researchers, law enforcement agencies, and EU institutions, all of which provide valuable insights and data to better understand the nature, scale, and dynamics of VAT fraud. Among all, see for instance: M.C. Frunza, "Value Added Tax Fraud", Routledge, 2018; S. Fedeli, F. Forte, "EU VAT Fraud", in European Journal of Law and Economics, Vol. 31, n. 2, 143-166, 2009; M. Keen, S. Smith, "VAT Fraud and Evasion: What Do We Know and What Can Be Done?" in National Tax Journal, Vol. 59, n. 4, 861-887, 2006.

[2] To better understand the European dimension of this crime, see: M. Griffioen, E.C.J.M. van der Hel-van Dijk "Tackling VAT-Fraud in Europe: A Complicated International Puzzle", in Intertax, Volume 44, Issue 4, 290 – 297, 2016; L. Sergiou, "Value Added Tax (VAT) Carousel Fraud in the European Union" in Journal of Accounting and Management, vol. 2 n. 2, 9-21, 2012, M. Lamensch, E. Ceci, "VAT fraud - Economic impact, challenges and policy issues", Policy Department for Economic, Scientific and Quality of Life Policies Directorate-General for Internal Policies, 2018, retrieved from: https://www.europarl.europa.eu/cmsdata/156408/VAT%20Fraud%20Study%20publication.pdf; F. Borselli, "Organised Vat Fraud: Features, Magnitude, Policy Perspectives", in Bank of Italy Occasional Paper No. 106, 2011, retrieved from: https://ssrn.com/abstract=1966015; R. F. van Brederode, "Third-Party Risks and Liabilities in Case of VAT Fraud in the EU", in International Tax Journal, January – February, 2008, 31-42; M. Frunza, "Cost of the MTIC VAT Fraud for European Union Members", 2016, retrieved from: https://papers.ssrn.com/sol3/papers.cfm?abstract_id=2758566; T. Michalik, "How the European Commission and European Countries Fight VAT Fraud", mBank - CASE Seminar Proceedings 0147, CASE-Center for Social and Economic Research, 2017; J. Sarnowski, P. Selera, "European compact against tax fraud—VAT solidarity and new dimension of effective and coherent tax data transfer", ERA Forum 21, 2020, p. 81–93, retrieved from: https://doi.org/10.1007/s12027-020-00603-z.

The nationalities most prominently represented in these networks are Czech, Polish, Portuguese, and Spanish. Poland, Portugal, and Spain are the countries most affected by this type of fraud[3].

A clear indicator of the extent and significance of VAT fraud is reflected in the EPPO's 2023 Annual Report[4]. The report shows that **59% of the estimated losses of €19.2 billion for the year were due to VAT fraud**, marking a dramatic 71% increase compared to 2022. This surge emphasizes the growing sophistication and scale of VAT fraud, making it more challenging for authorities to detect and prevent such crimes. To effectively address this issue, there is a critical need for a coordinated and proactive approach involving national and EU-level institutions.

VAT fraud **can manifest itself in different forms**, with **carousel fraud** (also known as "missing trader" fraud) and **invoice fraud being** the most common. Carousel fraud occurs when goods are sold across borders, and VAT is initially charged to the buyer but never remitted to the authorities. Instead, criminals exploit the VAT system by submitting fraudulent refunds claims. In invoice fraud, false invoices are used to reclaim VAT for non-existent or inflated transactions.

The digital revolution has also significantly impacted VAT fraud by providing new tools for criminals to exploit. Indeed, one of the biggest challenges in the fight against VAT fraud today is the **increasing exploitation of digital technologies by criminals**[5]. As ICT (Information and Communication Technology) continues to evolve, so do the tactics used by fraudsters. Digital technologies, including e-commerce platforms, blockchain anonymity, and financial technology (fintech) solutions, have opened up new avenues for fraudulent activity. Criminals are now using online payment systems, cryptocurrencies, and digital wallets to disguise illicit transactions, making detection and enforcement challenging for tax authorities[6]. In particular, the **use of online platforms** enables fraudulent traders to disguise their operations, often through cross-border schemes, creating a complex web of transactions that tax authorities struggle to trace. Furthermore, **digital invoicing systems** and the ability to create forged documents with minimal resources have further reduced the barriers to committing VAT fraud. At the same time, the use of digital tools for VAT fraud has made traditional detection methods[7] less effective. Innovative approaches are therefore needed to tackle the cyber dimension of financial crime.

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[3] Europol, “Decoding the EU’s most threatening criminal networks”, Publication Office of the European Union, 2024.

[4] EPPO Annual Report 2023, retrieved from: https://www.eppo.europa.eu/sites/default/files/2024-03/EPPO_Annual_Report_2023.pdf.

[5] On digital VAT frauds, see: L. Foffani, L. Bin, M. F. Carriero, “Cyber VAT frauds, ne bis in idem and judicial cooperation, A comparative study between Italy, Belgium, Spain and Germany” – Research project, Giappichelli, 2019; J. Nicholls, A. Kuppa and N. A. Le-Khac, "Financial Cybercrime: A Comprehensive Survey of Deep Learning Approaches to Tackle the Evolving Financial Crime Landscape," in IEEE Access, vol. 9, 163965-163986, 2021; M. Lagazio, N. Sherif, N. Cushman, “A multilevel approach to understanding the impact of cybercrime in the financial sector” in Computer & Security, Vol. 45, 1-32, 2014; J. Vanhoeyveld, D. Martens, B. Peeters, “Value-Added Tax fraud detection with scalable anomaly detection techniques” in Applied Soft Computing, Vol. 86, n. , 2020; F. Borselli, S. Fedeli, L. Giuriato, "Digital VAT carousel frauds: a new boundary for criminality?", TAX NOTES INTERNATIONAL; 707-724, 2015; Papis-Almansa, “VAT and electronic commerce: the new rules as a means for simplification, combatting fraud and creating a more level playing field?”, ERA Forum 20, 2019, 201–223, retrieved from: https://doi.org/10.1007/s12027-019-00575-9; R. T. Ainsworth, “Carousel Fraud in the EU: A Digital Vat Solution”, in Tax Notes International, p. 443, May 1, 2006, Boston Univ. School of Law Working Paper No. 06-23, retrieved from: https://ssrn.com/abstract=924189.

[6] European Commission, “Combating VAT fraud”, 2017, retrieved from https://ec.europa.eu;

[7] For a detailed analysis of investigative tools for tackling VAT fraud, see: F. Borselli, “Pragmatic Policies to Tackle VAT Fraud in the European Union” in International VAT Monitor, No. 5, 332-343, September/October 2008; O. Sokolovska, “Cross-border VAT frauds and measures to tackle them”, 2016, retrieved from: ttps://mpra.ub.uni-muenchen.de/70504/ ; European Union, “Tackling intra-Community VAT fraud: More

Despite the pervasive nature of these phenomena and their significant impact on the global economy, the existing body of literature on the subject—both in criminal law and criminology—remains decidedly sparse and fragmented. The phenomenon, particularly at the digital level, has yet to be comprehensively studied, and there is a clear lack of an effective and systematic mapping of the criminal law and procedural tools available to address it. This **gap** is further highlighted by the **lack of a common and uniform definition of cyber-VAT fraud**, which continues to hamper efforts to develop coordinated responses and standardized legal approaches at national and international level. Moreover, digital exploitation is complicated by the global nature of e-commerce, where VAT fraudsters often operate across borders, and take advantage of different national regulations and tax systems. This challenge is exacerbated by the fact that, as is often seen in the fight against cybercrime, national legal frameworks and enforcement measures struggle to keep pace with the rapid pace of technological advancement, leaving them unable to effectively counter these evolving threats.

To counter the emerging threat of cyber VAT fraud, it is essential to understand how digital technologies are leveraged by criminals. This understanding helps to develop more effective law enforcement strategies and facilitates the identification of best practice in combating such crimes. It also highlights the importance of cross-border cooperation between EU Member States, as well as with supranational institutions such as Europol, in order to respond quickly to the increasing complexity of financial crime. The EU's efforts to combat VAT fraud are in line with the European Commission's political guidelines for the period 2024-2029, which emphasize the strengthening of the EPPO's capacities. The guidelines propose granting the EPPO additional powers and support from Europol, to develop into a fully operational police authority with increased resources[8]. This enhanced institutional cooperation will enable a more efficient and coordinated approach to tackling complex fraud and related crimes across the EU. In order to achieve these objectives, **accurate, timely, and shared data on VAT fraud in the Member States is crucial**.

This is where initiatives such as the EU CYBER VAT research project come into play.

1.2 Purpose of the study

The aim of the comparative study is to present the measures in force in the Member States (MSs) to combat VAT fraud, in particular cyber VAT fraud, with a specific focus to the **transposition of EU criminal law into the national law** of the individual MSs on this area. In particular, the study will examine the scope of application of the **PIF Directive** and its **implementation by the EU countries** as well as the adequacy of their national legislation to prevent and combat VAT fraud in cyberspace.

From the perspective of criminal law protection, as far as **substantive criminal law** is concerned, the aim of this study was to discuss and understand whether the framework of offences at European level and in national legislations is sufficient to address these new trends or whether a **new criminalization** is needed, e.g. by introducing a specific offence for cyber VAT fraud. Therefore, the differences between the national legislation of the Member States were taken into account,

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action needed", Publications Office of the European Union, 2016; CESOP - Guidelines for the reporting of payment data, 2023, retrieved from: https://taxation-customs.ec.europa.eu/taxation/vat/fight-against-vat-fraud/tackling-vat-fraud-e-commerce-cesop_en.

[8] Ursula von der Leyen, Candidate for the European Commission President, EUROPE'S CHOICE - POLITICAL GUIDELINES FOR THE NEXT EUROPEAN COMMISSION 2024–2029, retrieved from: https://commission.europa.eu/document/download/e6cd4328-673c-4e7a-8683-f63ffb2cf648_en?filename=Political%20Guidelines%202024-2029_EN.pdf.

possible weaknesses and strengths were identified and an attempt was made to identify national best practices.

In addition to the substantive criminal law perspective, the analysis also covers the **procedural profiles of VAT fraud and cyber VAT fraud** regulation and assesses whether the investigative measures and activities available to tax authorities and law enforcement agencies in the four phases of the anti-fraud cycle (i. prevention, ii. detection, iii. investigation and prosecution, iv. confiscation and sanctions) can be considered adequate and effective. Particular attention will be paid to **digital investigative measures** using digital forensic tools to counter new threats to the financial interests of the European Union in the context of the digital age.

Finally, the project will determine whether the criminal law protection provided by EU criminal law against Missing Trader Intra-Community Fraud (MTIC Fraud) in the **digital marketplace** can be considered adequate or whether there are gaps that need to be filled, also taking into account the new VAT rules for **cross-border e-commerce activities** that have recently entered into force. Indeed, MTIC has been considered in the digital market, to explore the possibility of introducing forms of service provider liability to prevent online fraud related to e-commerce activities.

For the purposes of the EU Cyber VAT project and this analysis:

Cyber VAT fraud refers to both a cyber enabled and a cyber assisted crime that consists of VAT fraud facilitated by new technologies. Such facilitation can take place:

a) *at various stages (e.g. the financial transaction stage, where the ability to conceal cash flows can be facilitated);*
b) *through certain activities (e.g. the creation of false documents or the establishment of fake companies);*
c) *through the creation of new intangible goods generated by technology / digital goods (e.g. software, carbon credits).*

Project **EU CYBER VAT - Fighting cyber-VAT fraud in the EU: a comparative criminological and criminal law study.**

General objective

The **general objective of this comparative law study** (project EU CYBER VAT) is to assess the adequacy of the current legal framework at EU and Member State level with regard to combating cyber-VAT fraud and to propose solutions to make it more effective and efficient at EU and Member State level. Using the method of comparative law research, the project will investigate whether the European criminal law framework for VAT fraud under the PIF Directive, its implementation by Member States, and national criminal law provisions can provide a sufficient level of legal protection against the intersection of VAT fraud and cybercrime. As these are cross-border and particularly serious crimes, the degree of harmonisation between national rules must always be monitored and ensured.

Specific objectives

The general objective of the project can be divided into the following 3 specific objectives (SO):

- To provide an analysis of cyber-VAT frauds in the European Union from an empirical criminological point of view, with special attention to the modus operandi as well as the characteristics of the actors involved. The new threats related to the digitalization of tax transactions will be assessed from a criminological perspective, in order to provide a basis for evaluating the adequacy of measures against cyber-VAT fraud in the EU and activities to detect and investigate cyber-VAT fraud by tax and law enforcement authorities;

- To provide an account of the transposition of EU criminal law into national legislations to specifically prevent and combat cyber-VAT fraud and an account of the differences between the relevant national legislations of the Member States as well as national best practices;
- To elaborate, from the dual perspective of substantive criminal law and criminal procedure, recommendations and proposals to improve the EU regulation and the national anti-fraud strategies (NAFS) against cyber-VAT fraud in order to address the new threats to the financial interests of the European Union in the context of the digital age. This will take particular account of MTIC in the digital marketplace, exploring the possibility of introducing forms of service provider accountability to prevent cyber-VAT fraud. It will also promote a higher level of harmonisation in the regulation of cross-border cyber-VAT fraud, especially when it occurs in the context of e-commerce activity.

Funding

With the financial support of the Directorate-General for European Anti-Fraud Office – OLAF Union Anti-Fraud Programme – EUAF.

1.3 Scope and methodology

This comparative study presents the results of the **mapping** exercise and provides an overview of the current **state of implementation of the PIF Directive and Directive 2020/284** in the Member States. It also provides an overview of Member States' national legislation on the **investigation and prosecution of VAT fraud and VAT cyber-fraud**.

Based on **extensive desk research and a literature review**, the CSSC research team prepared a preliminary study focusing on the legal aspects of VAT fraud. The study examined the legal framework, enforcement mechanisms, and judicial practices related to combating this type of fraud, and assessed the role of courts, tax authorities, and enforcement agencies in the prosecution of VAT fraud. In particular, the study collected and analysed legal definitions, classifications of VAT fraud at the EU level and in different jurisdictions, Member States' compliance with the PIF Directive, current penalties and sanctions and their adaptation to the seriousness of VAT fraud, legal loopholes exploited by fraudsters to evade detection and prosecution, and the effectiveness of cross-border legal cooperation mechanisms in combating international VAT fraud. The **aim** was to **identify gaps** in existing laws, **assess the effectiveness of enforcement mechanisms**, and **propose legal reforms** to strengthen the fight against VAT fraud.

The comparative analysis on substantive law was more straightforward thanks to the PIF Directive, which harmonizes the legal provisions of EU Member States in fighting VAT fraud. Conversely, the analysis of investigative procedures is more complex due to the diverse laws and practices across different countries. This analysis aims to outline the general frameworks applicable in each Member State.

This preliminary study was followed by an **analysis of secondary sources** and consultations with relevant **experts and stakeholders**. A questionnaire (described in detail in the next section) was prepared and sent to pre-selected experts from each Member State, mainly from academia. The draft study was then sent to national experts and other relevant stakeholders and discussed in two online focus groups, as foreseen the grant agreement (details in the next section). The study was revised and refined based on the feedback and suggestions received.

Of the 27 national experts contacted, questionnaires were received from 25. Consequently, two countries, Estonia and Slovenia, were not directly represented by a national expert. However, the

questionnaire was completed for all other Member States and a productive exchange took place with the experts.

National experts from EU Member States that participated in the project:

AT	Austria	Prof. Dr. Stefan Schumann
BE	Belgium	Prof. Vanessa Franssen, Ana Laura Claes
BG	Bulgaria	Prof. Dr. Savina Goleminova-Mihailova
CY	Cyprus	Alexis Tsielepis, Nicholas Shiakalis
CZ	Czech Republic	Prof. Hana Zídková, Ondrej Malek
DE	Germany	Prof. Dr. Jens Bülte
DK	Denmark	Jacob Ravn
EE	Estonia	CSSC
ES	Spain	Prof. María Ángeles Fuentes Loureiro
FI	Finland	Dr. Tiina Ruohola
FR	France	Dr. Marius-Cristian Frunza
GR	Greece	Prof. Savvadou Katerina
HU	Hungary	Prof. Zsolt Szatmari
HR	Croatia	Dr. Ksenija Cipek
IE	Ireland	Prof. Elaine Doyle, Prof. Paul McCutcheon, Dr. Alex Casey
IT	Italy	CSSC, Hans Roderich Blattner, Viviana Nicolella
LT	Lithuania	Prof. Gintaras Švedas
LU	Luxembourg	Dr. Loquet Erwan
LV	Latvia	Ilze Znotina
MT	Malta	Dr. Attard Robert
NL	The Netherlands	Dr. Pim Geelhoed
PL	Poland	Prof. Dr. habil. Artur Mudrecki, Prof. Dr. habil. Monika Augustyniak
PT	Portugal	Prof. Susana Aires de Sousa
RO	Romania	Dr. Ene Marilena
SK	Slovakia	Prof. Ing. Kubicovà
SI	Slovenia	CSSC
SE	Sweden	Prof. Kristoffersson Eleonor

For Estonia and Slovenia, relevant information was collected through desk research and the analysis of secondary sources (e.g. - institutional reports and policy briefs), where available. However, the data differed from the survey responses in terms of scope, depth, and detail, making a comprehensive and meaningful comparison difficult.

Finally, it has to be noted that this analysis serves as an interim study within the EU Cyber VAT Fraud project and will contribute to the final Report. This one will include recommendations and best practices for combating VAT fraud, with a particular focus on cyber VAT fraud.

The questionnaire

As already mentioned, a network of **27 selected national researchers** (one per Member State) was set up for the project. In each Member State, a national expert—primarily academics (researchers)

and, to a lesser extent, private sector professionals with expertise in the field—has been identified through an extensive network of contacts established through previous projects. To date, 25 out of the 27 national researchers have been identified.

The researchers were asked to provide relevant materials and to respond to a short, concise and structured **questionnaire** (Annex 1).

The **objectives of the EU CYBER VAT questionnaire** were to:

present the status of the transposition of **Directive (EU) 2017/1371** of the European Parliament and of the Council of July 5, 2017 on the fight against fraud to the Union's financial interests by means of criminal law (hereinafter "**PIF Directive**") into the national law of the Member States and the mapping of the national legislation of the Member States in relation to the criminal offences of VAT fraud and cyber VAT fraud;

1. identify which **investigative tools/measures** are used in the EU Member States to investigate and prosecute VAT fraud and cyber VAT fraud;
2. examine the **role of ICT in the strategy/policy to combat cyber VAT fraud**;
3. assess the legal framework for **cyber-VAT fraud** (e.g. MTIC) affecting the EU's financial interests in the context of **e-commerce**;
4. identify trends in (new) cybercriminal activities against the EU's financial interests by describing clusters of modus operandi and cyber VAT fraudsters in the EU based on **case studies**.

The relevant questions in the questionnaire are located in the following sections:

- **Section 1** - "Criminal Law on VAT Fraud" (Questions 1-5, and the three Annexes provided with the questionnaire);
- **Section 2** - "Criminal Law on Cyber VAT Fraud" (Question 6);
- **Section 3** - "Investigation and Prosecution of VAT and Cyber VAT Fraud" (Questions 7-13.2);
- **Section 4** - "The Role of ICT in Strategies/Policies to Combat Cyber VAT Fraud" (Questions 14-16).

Online focus groups

The project also aims to **activate networks among academics** dealing with the protection of the EU's financial interests, with a focus on digitalization, and **to facilitate contacts and dialogue with institutional actors**, law enforcement officials and national prosecutors. For this reason, national experts and other relevant stakeholders (police officers and prosecutors) were invited to participate online in two focus groups. A final workshop will also be organized before the end of the project.

The first focus group explored **possible criminal law, criminal procedure, and other substantive legal strategies that could be implemented** at the EU Member State level to effectively combat cyber VAT fraud within the EU.

Based on the collected national responses to the questionnaire, the focus group pursued the following objectives:

a) discuss possible and effective options in relation to the criminalization of cyber VAT fraud;
b) identify the most effective digital investigative measures that national law enforcement authorities can rely on (e.g. whether open-source intelligence tools can also be used by authorities to investigate tax crimes);

c) examine which legislative, administrative, organisational and operational national measures can be most effective in combating cyber VAT fraud.

Three main topics were proposed in the discussion:

- **EU cyber VAT fraud: is a specific criminal offence needed?** In relation to the first objective of the focus group, the discussion centred on the question of whether it would be beneficial to introduce a specific national offence for cyber VAT fraud or whether it would be sufficient to deal with it under the existing offence of "traditional" VAT fraud. Alternatively, the possibility of classifying cyber VAT fraud as an aggravating circumstance in cases of "traditional" VAT fraud was also considered.
- **Digital investigation tools to detect EU cyber VAT fraud:** In relation to the second objective, the discussion focused on which digital investigation tools (e.g., open-source intelligence tools, artificial intelligence, and other digital forensic techniques) should be prioritized in the fight against cyber VAT fraud in the EU. These tools were considered due to their potential to facilitate the correlation between the parties involved and to carry out cross-checks.
- **Recommendations for ICT strategies and policies to combat cyber VAT fraud in the EU:** In relation to the third objective, the focus group collected and discussed recommendations for ICT strategies and policies that are particularly effective in combating cyber VAT fraud, drawing on the participants' experiences and studies.

The second focus group dealt with the issue of **cyber- VAT fraud in e-commerce**. Based on the collected national responses to the questionnaire, the focus group pursued the following objectives:

a) discuss the legal framework for cyber VAT fraud (and in particular MTIC fraud) committed via e-commerce in the Member States in the light of the introduction of new forms of obligations for payment service providers to prevent VAT fraud;
b) assess the need for and impact of a greater harmonisation in the regulation of cross-border cyber VAT fraud, especially when it occurs in the context of e-commerce.

Two main topics were discussed at the event:

- with a particular a particular focus on VAT fraud (and MTIC fraud) committed on digital marketplaces, the role and responsibilities of platforms were examined, considering both the obligations and the subjective elements of the crime;
- the transition from the Mini One Stop Shop (MOSS) to the new One Stop Shop (OSS) regime: reflections on the 'VAT e-commerce package' as a centralised and digitised European system for VAT settlement.

Additionally, operational proposals for combating online VAT fraud, presented by Italian stakeholders, including a Public Prosecutor and a Marshal of the Guardia di Finanza, were also shared during the focus group.

The results of the questionnaires, along with posthumous contributions from national experts, insights gathered during the online focus groups with experts and relevant stakeholders, and the comments on the focus group minutes, have all contributed to the development of the comparative study presented in this document. This study will form a key part of the final report for the EU CYBER VAT project.

2. Criminal law on VAT fraud

The first section of this study analyses the state of transposition of **Directive (EU) 2017/1371** of the European Parliament and of the Council of 5 July 2017, so-called PIF Directive, on fighting fraud against the Union's financial interests using criminal law (hereinafter the PIF Directive) into national law of each Member State. The **legal framework of VAT fraud** in national criminal law was examined. In particular, compliance with the various articles of the Directive, which deal with the treatment of VAT fraud committed by natural and legal persons, is assessed. To do this, these topics were addressed in the questionnaire submitted to the national experts. In the questionnaire, about **compliance with Article 3 of the PIF Directive**, respondents were asked to confirm or clarify the conclusions in the first annex provided (Annex 1), which contained the results of the preliminary analysis carried out by the CSSC (*Q. 1*).

Article 3 of the PIF Directive requires Member States to adopt the necessary measures to punish intentional conduct that causes damage to the financial interests of the EU. It establishes what constitutes fraud under EU law in connection with revenues and expenditures, giving a list of conducts that shall be regarded as fraud. These conducts are differentiated based on whether they affect EU Revenue or EU Expenditure and they can be summarized as follows:

- fraud involving revenue refers to acts that diminish the financial interests of the EU, including misrepresentation or concealment of information related to VAT or customs duties; submission of false or incomplete statements; non-disclosure of information that leads to a reduction in EU revenues.
- fraud related to EU expenditures includes: the use or presentation of false, incorrect, or incomplete statements or documents, leading to the misappropriation or wrongful retention of EU funds; failure to disclose information, which results in the misappropriation or wrongful retention of EU funds; misapplication of funds for purposes other than those for which they were granted.

Respondents were then asked to indicate which types of VAT fraud are covered by their national law (*Q. 1,1)* and what **subjective intent** is required for punishment: intentional, unintentional, or both (*Q. 1,2*).

The study also examined the sanctions framework outlined in the PIF Directive, focusing on **penalties for natural persons** under Article 7 (*Q. 2*) and those for legal entities under Articles 6 (*Q. 4*) and 9 (*Q. 5*). Article 7 of PIF Directive addresses the criminal sanctions that Member States must apply to natural persons who intentionally commit offenses that harm the EU's financial interests, ensuring these penalties are effective, proportionate, and dissuasive. Meanwhile, Articles 6 and 9 detail the obligations of Member States to ensure that **legal persons** can be held liable for such offenses, either directly or due to a lack of oversight by individuals in positions of authority. These provisions emphasize the importance of robust sanctions to deter VAT fraud and protect the EU's financial interests.

As for question n. 1, also, or questions number 2 and 4 respondents were asked to confirm or clarify the conclusions in the annexes provided (respectively *Annex 2* and *Annex 3*), which contained the results of the preliminary analysis carried out by the CSSC.

Finally, the consistency of the PIF Directive with Article 8, which addresses the **aggravating circumstances for VAT fraud in the context of organized crime**, was examined (*Q. 3*). There is a reference to Framework Decision 2008/841/JHA, which governs the fight against organized crime in Europe.

As previously noted, VAT fraud—and fraud in general—is the second most exploited market by criminal networks. These networks have a significant capacity to operate across Member States, posing a serious threat to the financial interests of the EU. This underscores the urgent need for an efficient and coordinated response to address this issue effectively.

Disclaimer: Not all legal translations provided are official. Some have been translated by experts, while others were prepared by the CSSC.

2.1 Study results

Austria

As already mentioned, article 3 of the PIF Directive concerns the criminalization of the commission of fraud to the detriment of the EU's financial interests. **Austria is compliant with Article 3 of the PIF Directive**. Austria has achieved compliance by **introducing completely new legislation**. Indeed, the previous national legal provisions did not meet the minimum requirements set out by the Directive [see Federal Law Gazette 129/1958 as amended by Federal Law Gazette I 62/2019]. For this reason, the European Commission initiated an infringement procedure against Austria, which was concluded in May 2022.

Various provisions in the Fiscal Criminal Code penalize these phenomena, ranging from general tax evasion [see § 33 FinStrG[9]] to tax fraud [§ 39 FinStrG[10]], including the article § 40 FinStrG[11] that specifically regulates cross-border tax fraud.

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[9] § 33 FinStrG. Tax evasion
(1) Any person shall be guilty of tax evasion who intentionally causes a tax reduction in violation of a duty of notification, disclosure or truthfulness under tax law.
(2) Any person shall also be guilty of tax evasion who intentionally causes
a) in breach of the obligation to submit advance VAT returns in accordance with § 21 of the Value Added Tax Act 1994, a reduction of VAT (advance payments or credit notes)
[...] and considers this not only possible but certain [knowledge].
(3) A tax reduction pursuant to subsection 1 or 2 shall be deemed to have been effected [...]

[10] § 39 FinStrG. Tax fraud
(1) Any person is guilty of tax fraud who commits the financial offences - to be punished exclusively by the court - of tax evasion, smuggling, evasion of import or export duties or tax theft pursuant to section 37 (1) by
a) using false or falsified documents, false or falsified data or other such evidence, with the exception of incorrect tax declarations, notifications, reports, records and profit calculations to be drawn up in accordance with tax, monopoly or customs regulations, or
b) using fictitious transactions or other fictitious acts (§ 23 BAO) or
c) using books or records created with the aid of automated systems and required to be kept in accordance with tax or monopoly regulations, which have been influenced by the design or use of a program with the aid of which data can be changed, deleted or suppressed
commits an offence.
(2) Any person who commits a financial offence of tax evasion to be punished by the court by claiming input tax amounts that are not based on deliveries or other services in order to affect a tax reduction without fulfilling the offence in subsection 1 shall also be guilty of tax fraud.
(3) (a) Anyone who commits tax fraud is liable to a custodial sentence of up to five years. In addition to a custodial sentence not exceeding four years, a fine of up to 1.5 million euros may be imposed. Associations are liable to an association fine of up to five million euros.
(b) Anyone who commits tax fraud with a criminal value exceeding 500,000 euros is liable to a custodial sentence of one to ten years. In addition to a prison sentence not exceeding eight years, a fine of up to 2.5 million euros may be imposed. Associations are liable to an association fine of up to eight million euros.

[11] § 40 FinStrG. Cross-border value added tax fraud

According to the national expert, Austrian national legislation classifies VAT fraud as a general offense (**free form**), which means that no specific conduct or actions are explicitly defined. The conducts outlined by articles are very broad.

With regard to the **subjective element**, Austria provides that only **intentional acts** are punishable. Article 34 FinStrG establishes liability for the actions outlined in Article 33, even in cases of gross negligence [see § 34 on negligent tax evasion[12]].

Austria is also compliant with the required **sanctions** for the commission of fraud, described in Art. 7 of the Directive, in particular with the required maximum penalty of at least 4 years imprisonment in cases where the fraud committed against the financial interests of the EU has led to a loss of more than 100.000 € (threshold established for the "considerable damage"). Austria meets the requirements. According to article 33 (3)a, the maximum sentence of 5 years imprisonment, but 3(b) foresees a maximum penalty of 10 years for frauds with a criminal value exceeding 500,000 euros. The same is foreseen for Cross-border value added tax fraud.

Similarly, about the liability of legal persons, Austria is compliant with Article 6 of the PIF Directive, having already adopted compliant provisions before the Directive's enactment [§ 28a[13] Fin StrG Verbandsverantwortlichkeitsgesetz (VbVG) Act on Liability of Legal Entities for Criminal Offences, Artt. 1, 3[14], 4, 12].

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(1) Any person who intentionally creates or participates in a cross-border fraud scheme in which supplies, or other services are wholly or partly executed or simulated shall be guilty of cross-border VAT fraud if they does so by
a) using or submitting false, incorrect or incomplete VAT returns or documents, or
b) concealing VAT-relevant information in breach of a legal obligation, or
c) fraudulently causes a loss of VAT by submitting correct VAT declarations, whereby VAT is not paid by the due date at the latest or VAT credits are unlawfully claimed,
and the loss of VAT in the Community territory (§1 (3) of the VAT Act 1994) amounts to at least ten million euros in total.
(2) Cross-border VAT fraud is punishable by imprisonment of between one and ten years. In addition to a prison sentence not exceeding eight years, a fine of up to EUR 2.5 million may be imposed. Legal entities are liable to a fine of up to eight million euros.
(3) The calculation of the loss of revenue shall be based on the amounts that would have been charged if the tax liability had arisen in Austria, unless the defendant proves the amount of the tax liability by means of a legally binding decision by the other Member State of the European Union responsible for levying the tax.

[12] § 34 Grossly negligent tax evasion
(1) Any person who commits the offence specified in section 33 (1) through gross negligence shall be guilty of grossly negligent tax evasion; section 33 (3) shall apply accordingly.

[13] § 28a FinStrG. Responsibility of legal entities
(1) The provisions of Sections 1 and 2 of the Act on the Liability of Legal Entities for Criminal Offences shall apply to financial offences of legal entities to be punished by the court (Section 1 (2)); however, unless otherwise stipulated in offences, the fine imposed on the legal entity shall be calculated in accordance with the fine threatened for the financial offence for which the legal entity is responsible, but under the conditions of §15 (2) [FinStrG] in accordance with 1.5 times this fine. In all other respects, the provisions of this section shall apply insofar as they are not exclusively applicable to natural persons.
(2) Sections 2, 3, 4 (1), 5, 10, 11 and 12 (2) of the Act on the Liability of Legal Entities for Criminal Offences shall apply mutatis mutandis to financial offences committed by legal entities that are to be punished by the administrative financial penal authority. The fine shall be calculated in accordance with the fine threatened for the financial offence for which the legal entity is responsible. In all other respects, the provisions of this section shall apply insofar as they are not exclusively applicable to natural persons.

[14] § 3 VbVG
(1) A legal entity shall be liable for an offence under the further conditions of subsection (2) or subsection (3) if
1. the offence has been committed in its favour or
2. the offence violates duties incumbent on the legal entity.

In particular, Austria provides for the following sanctions (as indicated by Art. 9 of the PIF):

- criminal fine (not specified);
- exclusion from entitlement to public benefits or aid [sectoral regulations];
- temporary or permanent exclusion from public tenders [§ 78(1) No. 6 Federal Procurement Law 2018, implicitly referring to tax evasion, not the offense itself];
- judicial liquidation [intrinsically with the withdrawal of the business license, § 87 GewO].

Finally, Austrian national legislation contains an **aggravating circumstance** for VAT fraud committed in the context of **organised crime**, § 38a Fin StrG [15], as provided for by Article 8 of the PIF Directive.

Belgium

Belgium is compliant with Article 3 of the PIF Directive, which concerns the criminalization of the commission of fraud to the detriment of the EU's financial interests.

Belgium has achieved compliance by **amending its pre-existing legislation** after an infringement procedure was initiated by the EU Commission. The amendment was related only to the minimum sanctions because the definitions were already compliant.

Belgian national legislation classifies VAT fraud as a general offence (**free form**), which means that no specific conduct or actions are explicitly defined. The relevant legislative provisions are Articles 73[16] and 73 nonies[17] VAT Code (attempt) as last amended by L. 9 December of 2019.

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(2) The legal entity shall be liable for criminal offences committed by a decision-maker if the decision-maker as such has committed the offence unlawfully and culpably.
(3) The legal entity shall be liable for criminal offences committed by employees if
1. Employees have unlawfully committed the facts corresponding to the statutory offence; the legal entity shall only be liable for an offence that requires intentional conduct if an employee has acted intentionally; for an offence that requires negligent conduct, only if employees have failed to exercise the due care required by the circumstances; and
2. the commission of the offence was made possible or significantly facilitated by the fact that decision-makers disregarded the due and reasonable care required by the circumstances, by failing to take essential technical, organisational or personnel measures to prevent such offences.
(4) The liability of a legal entity for an offence and the criminal liability of decision-makers or employees for the same offence are not mutually exclusive.

[15] § 38a Fin StrG
(1) Whoever, without fulfilling the offence of § 39,
a) commits tax evasion, smuggling, evasion of import or export duties or tax theft under section 37(1) as a member of a gang of at least three persons who have joined together to commit the offense, with the assistance (section 11) of another member of the gang, [...] shall be punished in accordance with subsection 2.

[16] Art. 73 VAT Code:
Shall be punished with imprisonment of eight days to two years and with a fine of EUR 250 to EUR 500,000, or with one of those penalties, the person who with fraudulent intent or with the intent to harm, violates the provisions of this Code [i.e. the VAT Code] or of the decrees adopted for its implementation.'
If the offences mentioned in the first paragraph were committed in the context of serious tax fraud, organised or otherwise, the offender shall be punished with imprisonment of eight days to five years and a fine of EUR 250 to EUR 500,000, or with one of those penalties.
Tax fraud is in any event considered serious when the offences referred to in the first paragraph, are linked to the territory of at least two Member States and cause damage of at least 10,000,000 euros.

[17] Art. 73 nonies VAT Code:
The attempt to commit an offence referred to in Article 73, paragraph 3 shall be punished with imprisonment of eight days to three years and a fine of EUR 26 to EUR 50,000, or with one of those penalties.

With regard to the subjective element, Belgium provides that **only intentional acts** are punishable. This is explicitly provided for in Article 73 and can also be inferred from the fact that the attempt is punishable.

Belgium is, since 2019, compliant with the required **sanctions** for the commission of fraud, described in Art. 7 of the Directive, in particular compliance with the required maximum penalty of at least 4 years imprisonment in cases where the fraud committed against the financial interests of the EU has led to a loss of more than 100.000 € (threshold established for the "considerable damage"). Belgium meets the requirements and provides for a maximum sentence of 5 years imprisonment. It is necessary to underline that, in Belgium, there is a significant difference between the sanctions for "normal" VAT fraud (imprisonment of maximum 2 years, Art. 73, para. 1 VAT Code) and those for "serious VAT fraud" (imprisonment of maximum 5 years, Art. 73, para. 2 VAT Code). The latter is indeed higher than the threshold foreseen in the PIF Directive. It is worth pointing out that the PIF Directive defines the seriousness of fraud based on the damage or advantage it involves. Under Belgian law, there is no definition of what constitutes "serious fraud".

Similarly, with regard to the **liability of legal persons**, Belgium is compliant with Article 6 of the PIF Directive, having already adopted compliant provisions prior to the Directive's enactment (Art. 5 of the Belgian Criminal Code[18]).

The national expert underlined that: *"under Belgian criminal law, corporate criminal liability is autonomous or direct in nature, whereas the liability regime under EU law is indirect (Art. 6(1) PIF Directive) and functional (Art. 6(2) PIF Directive) in nature. While EU law does not require that the mens rea element is established on the part of the legal person, this is a requirement under Belgian criminal law. In this sense, the scope of Belgian criminal law is stricter, but it also does more justice to the efforts made by a legal person to prevent offences and to comply with the law. Moreover, contrary to EU law which confines cases of liability to the offenses committed by legal representatives of the legal person or other natural persons in a leading position, Belgian criminal law does not require this. An offense can be committed by any natural person, even a lower-level employee, and there is no requirement to identify the natural person nor to establish the offense on his part".*

In particular, Belgium provides for the following sanctions (as indicated by **Art. 9 of the PIF**):

- criminal fine: EUR 500 EUR – EUR 1,000,000

For legal persons, the fine is identical for normal and serious VAT fraud, due to the conversion mechanism of Article 41 bis, paragraph 1 of the Criminal Code. This mechanism is to be applied to calculate the criminal fines applicable to legal persons.

Furthermore, it is important to note that these legal fines do not correspond to the actual amounts to be paid by convicted offenders. When sentenced to a fine, the amount of the fine needs to be multiplied by eight. This figure corresponds to the currently applicable 'opdécimes' (namely 70, which means that per euro, 7 euros need to be added) that apply to all criminal fines, save

[18] Art. 5 of the Criminal Code:
'Any legal person is criminally liable for those offences which are either intrinsically linked to the achievement of its purpose or the defense of its interests or which, as evidenced by the concrete circumstances, have been committed on its behalf.
The following shall be assimilated with legal persons:
1° partnerships.
2° legal persons in formation.
The criminal liability of legal persons does not exclude that of natural persons, who are perpetrators of the same acts or participated in them.

exceptions. This mechanism of additional "opdécimes", which was first introduced in 1921 following the French example, allows the legislator to easily adjust the amount of all criminal fines to the changing costs of living and currency depreciation (inflation), this ensures that fines maintain their deterrent effect [see Article 1 of the Act of 5 March 1952].

The **other sanctions** foreseen are:

- placing under judicial supervision. This is only possible if:
    1. the criminal court decides to suspend the formal conviction and if it makes this decision conditional on several probational measures (Art. 3 and 18 bis of the Act of 29 June 1964);
    2. the legal person is convicted to a suspended sentence and if the criminal court imposes probational measures (Art. 8 and 18 bis of the Act of 29 June 1964).
- temporary or permanent closure of establishments that have been used for committing the criminal offense. Article 73ter, § 1, paragraph 2 VAT Code provides the criminal court with the possibility to close an establishment for three months to five years in case of conviction of the person who is the director, a member or employee of the legal person. In most cases, this person is thus a natural person (except when the director would be another legal person). Therefore, the closure of establishments is not considered a criminal penalty for the company/legal person whose establishment(s) that is (are) closed, but rather a criminal penalty for the natural person who is the director, member, or an employee of the company. In the event the convicted person is a legal person (which is theoretically possible, but less frequent – see above), the closure of the establishment can be considered a criminal penalty for the legal person.
- publication of the judgment (Art. 73 septies VAT Code);
- professional ban or disqualification order. Art. 1, (i) of the Royal Decree No. 22 of 24 October 1934, which essentially excludes the legal person from being the director of another Belgian legal person or Belgian establishment of a foreign legal person. Art. 73ter, § 1 VAT Code: In case the offense is committed by a tax advisor, accountant or related profession, the criminal court can prohibit to exercise this profession for three months up to five years.

Finally, Belgian national legislation contains an **aggravating circumstance** for VAT fraud committed in the context of **organised crime**, as provided for by Article 8 of the PIF Directive [see art.73 VAT Code].

Bulgaria

Bulgaria is compliant with Article 3 of the PIF Directive, which concerns the criminalization of the commission of fraud to the detriment of the EU's financial interests. Bulgaria has achieved compliance **amending its pre-existing legislation**.

About the **objective element** of the crime, Bulgarian national legislation prescribes specific conducts, and binding actions in their criminal codes (articles from 253 to 260c, Bulgarian Criminal Code). Bulgaria prescribes all the conducts indicated in Article 3 of the PIF Directive, and adds others: refer to the hypothesis contained in Articles 245b[19] (misuse of European Union funds) and

[19] Article 254b Criminal Code:
(New, SG No. 24/2005)

258[20] (obstruction of revenue authorities) of the Criminal Code and in Art. 83a[21] and foll. (to 83g) from the Administrative Violations and Sanctions Act (liability of legal entities for administrative violations).

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(1) (Amended, SG No. 26/2010) A person who uses any financial resources received from funds belonging to the European Union or such provided by the European Union to the Bulgarian State for any purpose other than as intended, shall be punished by imprisonment from one to six years.
(2) (Amended, SG No. 26/2010) If an official orders commission of the act referred to in the preceding paragraph, the punishment shall be imprisonment from two to eight years, and the court may deprive the convict of rights under Items 6 and 7 of Article 37 (1).

[20] Article 258 Criminal Code:
(Amended, SG No. 28/1982, repealed, SG No. 10/1993, new, SG No. 62/1997)
(1) (Amended, SG No. 33/2011, effective 27.05.2011) A person who unlawfully creates obstructions to the revenue authorities in implementation of their lawful duties, shall be punished by imprisonment for up to three years and a fine from BGN 1,000 to 2,000.
(2) Should the deed under paragraph (1) be committed by force or threat, the punishment shall be imprisonment from one to six years and a fine from BGN 2,000 to 5,000.

[21] Article 83a Administrative Violations and Sanctions Act
(New, SG No. 79/2005) [...]
A legal person, which has enriched itself or would enrich itself from a crime under Articles 108a, 109, 110 (preparations for terrorism), Articles 142 - 143a, 152(3) item 4, Articles 153, 154a, 155, 155a, 156, 158a, 159 - 159d, 162 (1) and (2), 164 (1), 171 (3), 172a - 174, 201 - 203, 209 - 212a, 213a, 214, 215, 216 (3), 225c, 227 (1) - (5), 242, 243, 244, 244a, 246 (3), 248a, 250, 252, 253, 254b, 255, 255a, 255b, 256, 260a - 260c, 278c - 278e, 280, 281, 282 283, 301 - 307, 307b, 307c, 307d, 308 (3), 319a - 319f, 320 - 321a, 327, 352, 352a, 353b - 353f, 354a - 354c, 356j and 419a of the Criminal Code, as well as from all crimes, committed under orders of or for implementation of a decision of an organized criminal group, when they have been committed by:
1. an individual, authorized to formulate the will of the legal person.
2. an individual, representing the legal person.
3. an individual, elected to a control or supervisory body of the legal person,
or
4. (amended, SG No. 81/20.10.2015, effective 21.11.2015) an employee to whom the legal person has assigned a certain task, when the crime was committed during or in connection with the performance of such task, shall be punishable by a financial penalty of up to BGN 1,000,000, but not less than the equivalent of the benefit, where the latter is of a financial nature; a penalty of up to BGN 1,000,000 shall also be imposed where the benefit is not of a financial nature or its amount cannot be established.
(2) (New, SG No. 81/2015, effective 21.11.2015) Such financial penalty shall also be imposed to legal persons not established in the territory of the Republic of Bulgaria where the crime referred to in paragraph 1 has been committed in the territory of the Republic of Bulgaria.
(3) (Renumbered from Paragraph 2, SG No. 81/2015, effective 21.11.2015) The financial penalty shall also be imposed on the legal person in the cases, when the persons under paragraph 1, items 1, 2 and 3 have abetted or assisted the commission of the above acts, as well as when the said acts were stopped at the stage of attempt.
(4) (Renumbered from Paragraph 3, amended, SG No. 81/2015, effective 21.11.2015) The financial penalty shall be imposed regardless of the materialization of the criminal responsibility of the accessories to the criminal act under paragraph 1.
(5) (New, SG No. 109/2020, effective 23.12.2021) When determining the amount of the financial penalty, the gravity of the crime, the financial state of the legal entity, the assistance rendered for disclosing the crime and for compensation of the damages of the crime, the amount of the benefit and other circumstances shall be taken into consideration.
(6) (Renumbered from Paragraph 4, amended, SG No. 81/2015, effective 21.11.2015, renumbered from Paragraph 5, SG No. 109/2020, effective 23.12.2021) The direct or indirect benefit derived by the legal person from the crime under paragraph 1 shall be confiscated in favor of the state, if not subject to return or restitution, or forfeiture under the procedure of the Criminal Code. Where the effects or property that were the object of the crime are missing or have been expropriated, their BGN equivalent shall be adjudged.
(7) (Renumbered from Paragraph 5, SG No. 81/2015, effective 21.11.2015, renumbered from Paragraph 6, SG No. 109/2020, effective 23.12.2021) Financial penalties under paragraph 1 shall not be imposed on states, state bodies and local self-government bodies, as well as on international organizations.

With regard to the subjective element, Bulgaria provides that **only intentional acts** are punishable.

Bulgaria is compliant with the **required sanctions** for the commission of fraud, described in Art. 7 of the Directive, in particular compliance with the required maximum penalty of at least 4 years imprisonment in cases where the fraud committed against the financial interests of the EU has led to a loss of more than 100.000 € (threshold established for the "considerable damage"). Bulgaria meets the requirements and provides for a **maximum sentence of 6 years imprisonment**.

Lastly, as already explained, Annex 3 was dedicated to the assessment of compliance with Art. 6 of the PIF Directive, involving the **liability of legal persons**: 23 States out of 25, whether through amendments, new disciplines, or because they were already compliant, correctly transposed the PIF Directive regarding these aspects. Bulgaria is one of those: the country amended its previous legislation to reach the compliance.

In addition to the **custodial sentence, Bulgaria provides for administrative fines** (see also Art. 83a, Administrative Violations and Sanctions Act). They are up to BGN 1,000,000, but not less than the equivalent of the benefit illegally obtained.

Finally, Bulgaria's national legislation contains an **aggravating circumstance** for VAT fraud committed in the context of **organised crime**, as provided for by Article 8 of the PIF Directive. The punishment for this crime, also committed by organized criminals, is also foreseen in Article 83a of the Administrative Violations and Sanctions Act.

Croatia

Croatia did not directly transpose the Directive: **had implemented some amendments to its previous legislation, but still not meet the requirements.** In 2021, European Commission initiated an infringement procedure against Croatia for this reason.

With regard to the objective element of the crime, Croatia national legislation prescribe **specific conducts**, and binding actions in their criminal codes. These conducts are all the conducts indicated in Article 3 of the PIF Directive (i.e. the use or presentation of false, incorrect, or incomplete statements or documents, the misapplication of funds, assets, or benefits) except for:

- Non-disclosure of VAT-related information in violation of a specific obligation;
- The presentation of correct VAT-related statements for the purposes of fraudulently disguising the non-payment or wrongful creation of rights to VAT refunds.

The criminal offenses referred to in Art. 3 of the PIF Directive, which protects the financial interests of the European Union, corresponding to national criminal offences: evasion of taxes or customs

(8) (New, SG No. 109/2020, effective 23.12.2021) The liability of a legal entity shall be extinguished upon the expiration of a time limit equal to the time limit under Article 81 (3) of the Penal Code, considered as of the date of commission of the crime, from which the legal entity benefited or would have benefited.

duties (art. 256 of the Criminal Code[22]), subsidy fraud (Art. 258 of the Criminal Code[23]), and fraud in business operations (Art. 247 of the Criminal Code[24]).

With regard to the subjective element, Croatia provides that **only intentional acts** are punishable.

Croatia is compliant with the required sanctions for the commission of fraud, described in Art. 7 of the Directive, in particular compliance with the required maximum penalty of at least 4 years imprisonment in cases where the fraud committed against the financial interests of the EU has led to a loss of more than 100.000 € (threshold established for the "considerable damage"). Croatia meets the requirements and provides for a **maximum sentence of 5 years imprisonment, up to 10 in case of fraud with significant damage, when acting on behalf of a legal entity.**

Lastly, respect the compliance with Art. 6 of the PIF Directive, Croatia already foreseen this kind of responsibility, even before the PIF Directive.

Finally, Croatian national legislation contains an **aggravating circumstance** for VAT fraud committed in the context of **organised crime**, as provided for by Article 8 of the PIF Directive.

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[22] Article 256 C.C.:
Tax or customs evasion
(1) Whoever, with the aim of having him or another person completely or partially avoid paying taxes or customs duties, provides incorrect or incomplete information about income, items or other facts that influence the determination of the amount of tax or customs liability, or whoever with the same aim in the case of mandatory report does not report the income, object or other facts that influence the determination of the tax or customs liability, and as a result the tax or customs liability is reduced or not determined in an amount that exceeds 2,654.46 euros, shall be punished by imprisonment from six months to five years.
(2) The penalty from paragraph 1 of this article shall be imposed on anyone who uses a tax relief or customs privilege in the amount of more than 2,654.46 euros contrary to the conditions under which he received it.
(3) If the criminal offense referred to in paragraphs 1 and 2 of this Article led to the reduction or non-determination of tax or customs liability on a large scale, the perpetrator will be punished with imprisonment from one to ten years.
(4) The provisions from paragraphs 1 to 3 of this article shall also be applied to the perpetrator who, in the actions described in them, reduces the funds of the European Union.

[23] Article 258 C.C.:
Subsidy fraud
(1) Whoever, with the aim of obtaining state aid for himself or for another, provides the state aid provider with incorrect or incomplete information on the facts on which the adoption of a state aid decision depends or fails to inform the state aid provider of changes important for the adoption of a decision on state aid, shall be punished by imprisonment for a term of six months to five years.
(2) The penalty referred to in Paragraph 1 of this Article shall be imposed on anyone who uses funds from the approved state aid contrary to their purpose.
(3) If, in the case referred to in Paragraph 1 of this Article, the offender acted with the aim of obtaining large-scale state aid or, in the case referred to in Paragraph 2 of this Article, used large-scale state aid, shall be punished by imprisonment for a term of one to ten years.
(4) Whoever, in the cases referred to in Paragraph 1 of this Article, voluntarily prevents the adoption of a decision on state aid, may be released from punishment.
(5) Subsidies and aids approved from the European Union funds shall be treated as state aid within the meaning of this Article.

[24] Article 247 C.C.:
(1) Whoever, in business operations, with the aim of obtaining unlawful property gain for the legal person he represents or another legal person, misleads someone by false presentation or concealment of facts or keeps him in error, thereby leading him to do or not to do something to the detriment of his own or someone else's property, shall be punished by imprisonment for a term of six months to five years.
(2) If the criminal offence referred to in Paragraph 1 of this Article has caused significant damage, the offender shall be punished by imprisonment for a term of one to ten years.

Cyprus

Cyprus is compliant with Article 3 of the PIF Directive, which concerns the criminalization of the commission of fraud to the detriment of the EU's financial interests. In February 2022, the European Commission started an infringement procedure against Cyprus. Cyprus, to achieve compliance, introduced an **entirely new legislation**.

Cyprus' national legislation classifies VAT fraud as a general offence (**free form**), which means that no specific conduct or actions are explicitly defined. The crime is foreseen by Article 4, L. 4762/2020 as amended by l. 114/2021

About the subjective element, Cyprus applies liability for **both intent and negligence**.

Annex 2 delved into compliance with the required sanctions for the commission of fraud, described in art. 7 of the Directive. Specifically, the question concerned compliance with the required maximum sentence of at least 4 years of imprisonment in cases where the fraud committed against the financial interests of the EU had led to damage of over 100.000 € (threshold established for the "considerable damage". Cyprus meets the requirements and provides for a **maximum sentence of 7 years imprisonment**.

Lastly, Annex 3 was dedicated to the assessment of compliance with Art. 6 of the PIF Directive, involving **the liability of legal persons**: Cyprus is compliant and enacted new legislations to achieve compliance.

More specifically, the **sanctions** foreseen in Cyprus for VAT fraud committed by legal persons are:

- criminal fine (€50.000);
- detention;
- temporary or permanent disqualification from the practice of commercial activities;
- placing under judicial supervision;
- judicial winding-up;
- temporary or permanent closure of establishments that have been used for committing the criminal offense.

Finally, Cyprus's national legislation contains an **aggravating circumstance** for VAT fraud committed in the context of **organised crime**, as provided for by Article 8 of the PIF Directive.

Czech Republic

The Czech Republic (CR) has **achieved compliance with Article 3 of the PIF Directive**, which mandates the criminalization of fraud against the financial interests of the European Union. **Compliance was reached through the amendment of pre-existing legal frameworks**, ensuring alignment with the Directive's requirements. The key provision is Art. 260 Criminal Code[25] (Damage

[25] § 260 Criminal Code
Damage to the financial interests of the European Union
(1) Whoever makes, uses or presents false, incorrect or incomplete documents, gives false, incorrect or incomplete information or conceals documents or information, thereby permits the unauthorised use or retention of funds deriving from the budget of the European Union or budgets managed by or on behalf of the European Union, or the diminution of the resources of any such budget, or permits the unauthorised use or retention of property acquired from the budget of the European Union or budgets managed by or on behalf

to the financial interests of the EU). The Czech Criminal Code was amended by Act No. 315/2019 Sb. that implemented the additional requirements of PIF. The second important provision is included in Art. 240 Criminal Code[26] (Tax, fee, and similar mandatory payment evasion).

Referring to classification and the objective element of the crime, in Czech national legislation, VAT fraud is broadly classified as a **general offense** ("free-form"). This classification does not explicitly delineate specific behaviors or actions but rather encompasses a wide range of fraudulent activities under the general framework of tax evasion (Art. 260 of the Criminal Code, as amended by Art. 260 of the Penal Code, as amended by Act No. 315). So, there is no autonomous offense of VAT fraud, but this conduct falls within the broader category of tax evasion.

Regarding the **subjective elements** required for criminal liability, Czech law stipulates that only **intentional acts** are punishable, excluding negligence or unintentional breaches.

With respect to compliance with the required sanctions for the commission of fraud, described in art. 7 of the Directive; Czech Republic meets the requirements and provides for a **maximum sentence of 5 years imprisonment**. To be more complete, the sanctions are up to 5 years in case of criminal offense under § 260 and up to 8 years under criminal offense under § 240. Moreover, there are differences based on the amount of damage caused, as also provided for other offenses [see Article 138 of the Criminal Code[27]].

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of the European Union, shall be liable to a term of imprisonment of up to three years, to a prohibition of activities or to confiscation of property.
(2) Anyone who misuses funds deriving from the budget of the European Union or budgets managed by or on behalf of the European Union, property acquired from the budget of the European Union or budgets managed by or on behalf of the European Union, or diminishes the resources of any such budget, shall be punished in the same way.
(3) Imprisonment for one to five years or a fine shall be imposed if the offender causes greater damage by an act referred to in paragraph 1 or paragraph 2.
(4) Imprisonment for two years to eight years will be imposed on the offender,
a) commits the act referred to in paragraph 1 or paragraph 2 as a member of an organised group,
b) commits such an act as a person under a special obligation to defend the interests of the European Union, or c) if he causes substantial damage by such an act.
(5) imprisonment for five to ten years shall be imposed if, by an act referred to in paragraph 1 or 2, the offender causes damage on a large scale.

[26] § 240 Criminal Code
Tax, fee, and similar mandatory payment evasion
(1) Whoever, on a large scale, evades a tax, duty, social security contribution, state employment insurance contribution, accident insurance contribution, health insurance contribution, fee or other similar compulsory payment or extorts a benefit on any of these compulsory payments shall be punished by imprisonment for six months to three years or by prohibition of activity.
(2) The offender shall be punished by imprisonment for two years to eight years,
a) commits the act referred to in paragraph 1 with at least two persons,
b) if, in order to facilitate such an act, he violates an official closure, or
c) commits such an act on a substantial scale.
(3) imprisonment for five to ten years shall be imposed on the offender,
a) if he commits the act referred to in paragraph 1 on a large scale, or
b) commits an act referred to in paragraph 2(c) in association with an organised group operating in more than one State.
(4) Preparation is punishable.

[27] § 138 Criminal Code
Limits on the amount of damage, benefit, cost to remedy environmental damage and value of the thing
(1) For the purposes of this Act means
a) not insubstantial damage amounting to not less than 10,000 CZK,
b) by a not minor damage amounting to at least 50,000 CZK,
c) greater damage amounting to at least 100,000 CZK,
d) substantial damage amounting to at least 1,000,000 CZK, and

The Czech Republic was already compliant with Article 6 of the PIF Directive, before its implementation [Section 7, Law n. 418/2011 about the **liability of legal persons**].

Czech law provides a comprehensive range of sanctions for VAT fraud, as required by **Article 9 of the PIF Directive**.

These sanctions encompass both criminal and non-criminal measures, demonstrating a robust approach to deterring and addressing such offenses:

- criminal fine (from 20 000 CZK to 1 460 000 000 CZK);
- non-criminal fine (confiscation of property);
- exclusion from entitlement to public benefits or aid;
- temporary or permanent exclusion from public tender procedures;
- temporary or permanent disqualification from the practice of commercial activities;
- judicial winding-up.

Finally, CR national legislation contains an **aggravating circumstance** for VAT fraud committed in the context of **organised crime**, as provided for by Article 8 of the PIF Directive.

Denmark

Concerning **compliance with Article 3 of the PIF Directive** did not transpose the Directive: among them, Denmark was not legally required to transpose it.

In Danish legislation VAT fraud is classified as a **general offense (free-form**), meaning no specific behaviors or actions are explicitly defined.

In Denmark, tax fraud is defined as any intentional act or omission that results in the evasion or avoidance of taxes owed to the state. This includes:

- underreporting income or overstating deductions;
- concealing assets or sources of income;
- falsifying financial records or documents;
- failing to file tax returns or providing inaccurate information

Danish law distinguishes between tax evasion and tax avoidance. Tax evasion involves illegal actions to reduce tax liability, while tax avoidance refers to legal methods of minimizing taxes. The legal framework governing tax fraud in Denmark is primarily contained in the Danish Tax Control Act (Lov om Skattekontrol) and in the Danish Criminal Code (Straffeloven).

With regard to the subjective element, Denmark applies liability for **both intent and negligence**.

About the compliance with the required sanctions for the commission of fraud, described in art. 7 of the Directive (sanctions for natural persons), Denmark meets the requirements and provides for a **maximum sentence of 4 years imprisonment**.

Regarding compliance with Art. 6 of the PIF Directive, involving the **liability of legal persons** Denmark did not transpose because it is not legally required to, being however bound by the PIF Convention.

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e) damage of great magnitude damages amounting to at least 10,000,000 CZK.
(2) The amounts set forth in paragraph 1 shall be used mutatis mutandis to determine the amount of the benefit, the cost to remedy the environmental damage, and the value of the property.

As regards the **sanctions set out in Article 9 of the PIF Directive**, these are mainly criminal, although there are also non-criminal (administrative or civil) ones. In Danish legislation, the following penalties are provided for about legal persons found liable under Article 6:

- criminal fine (not specified);
- non-criminal fine (not specified);
- judicial winding-up;
- temporary or permanent closure of establishments that have been used to commit the offense.

There is a **general aggravating circumstance** in the Danish Criminal Code, under Article 81[28], which provides for an increased penalty in cases where the offense is committed in an organized manner.

Estonia

Even though Estonia did not respond to the questionnaire prepared for the EU Cyber VAT fraud project, it has nonetheless been possible to assess its **compliance** with the PIF Directive and **Article 3**. Specifically, the European Commission initiated an infringement procedure against Estonia in May 2022 for its non-compliance with the Directive.

Estonia has adapted its Criminal Code to include specific financial crimes, including tax fraud and VAT fraud, by the provisions of the PIF Directive, specifically in Article 389(1)[29].

In this article, there are foreseen the **conducts** required for the commission of fraud, **very broad** ("Failure to submit information or submission of incorrect information to tax authorities for

[28] § 81 C.C.:
It should at fixing the penalty generally included as an aggravating circumstance, 1) the offender previously convicted of importance to the case, 2) that the act is done by several jointly, 3) that the offense is particularly planned or part of comprehensive crime, 4) that the perpetrator intended that the act would have considerable more serious consequences than the turns, 5) the offender has shown particular ruthlessness, 6) that the ministry is rooted in people's ethnic origin, religion, sexual orientation or the like, 7) that the act is a consequence of the victim's legal utterances in public debate, 8) the offense is committed in the conduct of public officials or abuse of position or special relationship of trust, moreover, 9) the offender has got someone else to help the ministry by force, fraud or exploitation of his young age or significant financial or personal difficulties, lack of knowledge, carelessness or an existing relationship, 10) that the perpetrator has used victim's defenseless position, 11) the offense is committed by a person undergo, imprisonment or other punishment of a custodial nature, 12) the offense is committed by a former inmate of the institution or person employed by the institution.

[29] § 389(1) C.C.:
Concealment of tax liability and unfounded increase of claim for refund
[RT I, 12.07.2014, 1 - entry into force 01.01.2015]
(1) Failure to submit information or submission of incorrect information to tax authorities for the purpose of reduction of an obligation to pay a tax or obligation to withhold, or increase a claim for refund, if a tax liability or obligation to withhold is thereby concealed or a claim for return is unfoundedly increased by an amount corresponding to or exceeding major damage, is punishable by a pecuniary punishment or up to five years' imprisonment.
(2) The same act, if a tax liability or obligation to withhold is thereby concealed or a claim for refund is unfoundedly increased by an amount corresponding to particularly great damage, is punishable by one to seven years' imprisonment.
(3) An act provided for in subsection (1) or (2) of this section, if committed by a legal person, is punishable by a pecuniary punishment.
(4) For criminal offence provided for in subsection (2) of this section, the court shall impose extended confiscation of assets or property acquired by the criminal offence pursuant to the provisions of § 832 of this Code.

reduction of an obligation to pay a tax or obligation to withhold, or increase a claim for refund, if a tax liability or obligation to withhold is thereby concealed or a claim for return is unfoundedly increased by an amount corresponding to or exceeding major damage").

The **subjective element requires the intention**.

The punishment is higher than the prevision of the Directive: an economic sanction or **up to 5 years imprisonment**, which become **up to 10 years for the most serious offenses**. The imprisonment is **up to 7 years**, if a tax liability or obligation to withhold is thereby concealed or a claim for refund is unfoundedly increased by an amount corresponding to particularly great damage.

Regarding Art. 6 of the PIF Directive, involving the **liability of legal persons**, Estonia is compliant [v. art. 389 (1) para. 3]. Other sanctions may also be applied, such as the extended confiscation of assets or property acquired through the crime or the deletion of a legal person from the register.

Finland

In terms of compliance with Article 3 of the PIF Directive, **Finland is compliant**, as stated in Government Proposal No. 231/2018, but it is unclear how compliance was achieved; according to the Finnish national expert, no substantial changes were required to achieve compliance, suggesting that the existing framework and legislation are already in line with the requirements of the Directive.

However, it should be noted that initially, in December 2021, the European Commission started an infringement procedure against Finland regarding the transposition of the PIF directive. The procedure was closed only after the explanatory replies from the Finnish government.

As regards compliance with the sanctions required by **Article 7 of the PIF Directive** for natural persons committing VAT fraud, in the case of Finland, although the maximum penalty is two years imprisonment and could therefore be incompatible, **compliance with Article 7 of the PIF Directive seems to be achieved by the joint provision of other articles of the Finnish Penal Code** (RL), in particular, fiscal offenses and offenses against the public administration: aid fraud (RL 29:5), abuse of aid (RL 29:7), fraud (RL 36 :1), tax evasion (RL 29:1), money laundering (RL 32:6), giving a bribe (RL 16:13), giving a bribe to a member of parliament (RL 16:14a), taking a bribe (RL 40:1), accepting a bribe as a member of parliament (RL 40:4) and abuse of office (RL 40:7).

With regard to the subjective element, Finland applies liability for **both intent and negligence**.

About compliance with Art. **6 of the PIF Directive**, involving the liability of legal persons, **Finland is compliant and reached compliance by amending its previous legislation,** specifically Section 9 of the Finnish Criminal Code[30], as amended by Article 10 L. 2019/368.

As regards the **sanctions** provided for in **Article 9 of the PIF Directive** about legal persons recognised as responsible under Article 6, Finnish legislation provides for a criminal fine of 850-850,000 euros.

Concerning the **aggravating circumstance**, Finland reports on the parliamentary discussion, which considered that the provision of an aggravating circumstance in the case of VAT fraud committed

[30] Section 9 C.C.:
Corporate criminal liability
If, under this chapter, Finnish law applies to the offence, Finnish law applies also to the determination of corporate criminal liability.

by a criminal organisation was not necessary, as they already comply with the Framework Decision 2008/841/JHA. Thus, Finland does not apply directly the aggravating circumstance provided for in Art. 8 of the PIF Directive, because it is already covered by Framework Decision 2008/841/JHA. This provision allows for increased penalties and the application of more severe sanctions when crimes are committed by organized criminal groups, as well as in the case of VAT fraud committed by organised groups.

France

According to the answers of the French national expert, France has **not transposed the directive** into its national legal framework, at least in regard to **Article 3 of the PIF Directive**. The existing legislation is inadequate, and no amendments have been made to address the requirements of the directive.

However, it should be noted that no infringement procedure has ever been initiated by the European Commission against France for this reason, likely considering the pre-existing legislation to be sufficient.

For the national expert, although criminal legislation can be applied to certain VAT fraud crimes, such legislation does not specifically address this crime and is applied generally for fraud (Art. 313-

1[31], 313-2[32], 313-3[33], 441-6[34] criminal code) and for money laundering (Art. 324-1 C.C[35]). As a result, not all specific conduct related to VAT fraud can be directly covered by the criminal code, as they are provided for in tax and administrative legislation.

Among the crimes related to VAT, there are:

- forgery of tax documents;
- false statements or intentional omissions and/or misuse of fictitious identities or companies;
- organized Fraud Schemes;
- tax evasion.

Finally, article 113-14 of the French Criminal Code[36] deals with the application of French criminal law to this offense committed abroad if it affects the financial interests of the European Union.

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[31] Article 313-1 C.C.:
Fraud - (Updated by Law No. 2019-222 of March 23, 2019)
A person who, by any means, engages in fraudulent practices to mislead someone with the aim of obtaining an undue financial advantage, either for themselves or for another person, shall be punished by imprisonment for up to 5 years and a fine of up to 375,000 euros.
This penalty can be increased to a prison sentence of up to 7 years and a fine of up to 750,000 euros when the offense is committed as part of a criminal organization or when the damage caused is particularly significant.
If the fraud targets a public institution, the penalties can be even more severe.

[32] Article 313-2 C.C.:
Fraudulent Misrepresentation and False Documents
Any person who, with the intention of obtaining an unlawful benefit for themselves or for others, has:
(1) Forged or altered a document with the aim of committing fraud.
(2) Presented or used a forged or altered document to deceive someone in order to obtain money or an asset.
(3) Used a document known to be false to gain or attempt to gain undue advantage,
shall be punished by imprisonment for up to 5 years and a fine of up to 375,000 euros.
If the offense is committed by an organized criminal group, the penalties may be more severe, including longer imprisonment or higher fines.

[33] Article 313-3 C.C.:
Aggravating Circumstances for Fraud
The penalties set forth in Article 313-1 are increased in the following cases:
When the fraud involves the use of false documents or the creation of false information.
When the fraud is committed by an organized criminal group or when the offender has committed multiple offenses related to fraud.
When the fraud causes damage to a public institution or significant financial losses.
In such cases, the punishment can be extended to imprisonment for up to 10 years and a fine of up to 1,000,000 euros.

[34] Article 441-6 C.C.:
The act of obtaining a document from a public administration or from an organization entrusted with a public service mission, by any fraudulent means, that is intended to establish a right, identity, or status, or to grant an authorization, is punishable by two years of imprisonment and a fine of 30,000 euros.
The same penalties apply to the act of knowingly providing a false or incomplete declaration with the intention of obtaining, or attempting to obtain, for oneself or for another person, from a public authority, a social protection organization, or an organization entrusted with a public service mission, an allowance, benefit, payment, or undue advantage.

[35] Article 324-1 C.C.:
Money laundering is the act of facilitating, by any means, the false justification of the origin of goods or income of the author of a crime or offense that has provided him with a direct or indirect profit.
Money laundering also includes providing assistance to an operation involving the placement, concealment, or conversion of the direct or indirect proceeds of a crime or offense.
Money laundering is punishable by five years of imprisonment and a fine of 375,000 euros.

[36] Article 113-14 C.C.:

In the French legal system, there is no specific VAT fraud offense, but there are various broader crimes that can also be applied to combat VAT fraud, and all the conducts outlined in **Article 3 of the Directive are effectively encompassed.**

Regarding the **subjective elements** required for criminal liability, French law stipulates that only **intentional acts** are punishable, excluding negligence or unintentional breaches.

As regards compliance with the sanctions required by Article 7 of the PIF Directive for natural persons committing VAT fraud, it is noted that the punishments **vary according to the severity of the offense**. They can include prison sentences ranging from a few months to several years, depending on the amount of tax evaded, the existence of aggravating circumstances (such as the use of forged documents or the formation of a criminal organization to commit tax fraud), and the recurrence of the crime. For this reason, the French expert considered that the national legislation was **not compliant with Article 7** of the PIF Directive because it is not always possible to establish whether the penalty for VAT fraud exceeds the threshold set by the Directive itself.

According to the national expert, with respect to compliance with **Art. 6 of the PIF Directive**, involving the liability of legal persons, France is not compliant, since **has not yet amended its legislation**.

However, it should be highlighted that in France, there is the possibility of holding legal persons responsible for crimes, as provided for by Articles 121-1[37] and 121-2[38] of the Penal Code.

Regarding the sanctions as indicated in Article 9 of the PIF Directive, France provides:

- criminal fine (article 131-38, 313-9, 313-1,313-2 and 313-3);
- temporary or permanent exclusion from public tender procedures;

By way of derogation from the second paragraph of Article 113-6, French criminal law applies in all circumstances, and the second sentence of Article 113-8 does not apply, to the following offenses committed abroad by a French national or by a person who habitually resides or conducts all or part of their economic activity in French territory, when they harm the revenue, expenses, or assets that fall under the budget of the European Union, the budgets of the institutions, bodies, and agencies of the European Union, or the budgets directly managed and controlled by them:
1° Offenses of fraud as defined in Section 1 of Chapter III of Title I of Book III.
2° Offenses of breach of trust as defined in Section 1 of Chapter IV of Title I of Book III.
3° Offenses of misappropriation, embezzlement, or destruction of property as defined in Articles 432-15 and 433-4.
4° Offenses of corruption as defined in Articles 432-11 and 433-1, as well as, without prejudice to Article 435-11-2, Articles 435-1 and 435-3.
5° Offenses of smuggling, fraudulent importation or exportation as defined in Article 414-2 of the Customs Code.
6° Offenses of money laundering as defined in Section 1 of Chapter IV of Title II of Book III of the offenses mentioned in this article.
For the prosecution of a person who has committed, on French territory, as an accomplice, an offense referred to in 1° to 6° committed abroad and affecting the financial interests of the European Union mentioned in the first paragraph of this article, the conditions set forth in Article 113-5 do not apply.

[37] Article 121-1 C.C.:
A person who has committed a criminal offense is subject to criminal penalties.
The provisions of the Penal Code shall apply to offenses committed by individuals or legal entities, as specified in the law.

[38] Article 121-2 C.C.:
Legal entities, excluding the State, are criminally liable, in accordance with the distinctions set out in Articles 121-4 to 121-7, for offenses committed on their behalf by their organs or representatives.
However, local authorities and their groupings are only criminally responsible for offenses committed in the exercise of activities that are subject to public service delegation agreements.
The criminal liability of legal entities does not exclude the liability of natural persons who are the perpetrators or accomplices of the same acts, subject to the provisions of the fourth paragraph of Article 121-3.

- temporary or permanent disqualification from the practice of commercial activities;
- placing under judicial supervision;
- temporary or permanent closure of establishments that have been used for committing the criminal offense.

France does not specifically apply the aggravating circumstance outlined in Article 8 of the PIF Directive for VAT fraud. However, various provisions in the French Criminal Code include aggravating circumstances in cases where the crime is committed by an organized criminal group [see the articles in the footnotes].

Germany

With respect to **compliance with Article 3 of the PIF Directive,** Germany is compliant by **amendment of a pre-existing discipline.**

The national expert highlighted that there are more provisions for the guarantee of the protection of the EU's financial interests, for instance, general provisions on fraud, computer fraud and

subsidy fraud. The amendments are related to Sections 263[39], 263a[40], 264[41], 266[42] German Criminal Code.

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[39] Sec. 263 German Criminal Code:
Fraud
(1) Whoever, with the intention of obtaining an unlawful pecuniary benefit for themselves or a third party, damages the assets of another by causing or maintaining an error under false pretenses or distorting or suppressing true facts incurs a penalty of imprisonment for a term not exceeding five years or a fine.
(2) The attempt is punishable.
(3) In especially serious cases, the penalty is imprisonment for a term of between six months and 10 years. An especially serious case typically occurs where the offender:
1. acts on a commercial basis or as a member of a gang whose purpose is the continued commission of forgery of documents or fraud,
2. causes a major financial loss to or acts with the intention of placing many persons in danger of financial loss by the continued commission of fraud,
3. places another person in financial hardship,
4. abuses his or her powers or position as a public official or European official or
5. pretends that an insured event has happened after they or another person have set fire to an object of significant value or destroyed it, in whole or in part, by setting fire to it or caused the sinking or grounding of a ship.
(4) Section 243 (2) and sections 247 and 248a apply accordingly.
(5) Whoever commits fraud on a commercial basis as a member of a gang whose purpose is the continued commission of offences under sections 263 to 264 or sections 267 to 269 incurs a penalty of imprisonment for a term of between one year and 10 years, in less serious cases imprisonment for a term of between six months and five years.
(6) The court may make an order for the supervision of conduct (section 68 (1)).
[40] Section 263a C.C.:
Computer fraud
(1) Whoever, with the intention of obtaining an unlawful pecuniary benefit for themselves or a third party, damages the property of another by influencing the result of a data processing operation by incorrectly configuring the computer program, using incorrect or incomplete data, making unauthorised use of data or taking other unauthorised influence on the processing operation incurs a penalty of imprisonment for a term not exceeding five years or a fine.
(2) Section 263 (2) to (6) applies accordingly.
(3) Whoever prepares an offence under subsection (1) by:
1. producing computer programs the purpose of which is to commit such an act or procures such programs for themselves or another, or
2. producing, procuring for themselves or another, offering for sale, storing or supplying to other passwords or other security codes suited to committing such an act
incurs a penalty of imprisonment for a term not exceeding three years or a fine.
(4) In the cases under subsection (3), section 149 (2) and (3) applies accordingly.
[41] Section 264 C.C.:
Subsidy fraud
(1) Whoever:
1. furnishes an authority which is competent to approve a subsidy, or another agency or person involved in the subsidy procedure (subsidy giver), for themselves or another person, with incorrect or incomplete particulars regarding facts which are advantageous for themselves or the other person, such particulars being relevant for the granting of a subsidy,
2. uses an object or cash benefit the use of which is restricted by legal provisions or by the subsidy giver in relation to a subsidy contrary to that restriction,
3. withholds from the subsidy giver, contrary to the legal provisions relating to grants of subsidies, facts relevant to the subsidy or
4. uses a certificate of entitlement to a subsidy or about facts relevant to a subsidy which was obtained by furnishing incorrect or incomplete particulars in a subsidy procedure
incurs a penalty of imprisonment for a term not exceeding five years or a fine.
(2) In especially serious cases, the penalty is imprisonment for a term of between six months and 10 years. An especially serious case typically occurs were offenders
1. acquire, out of gross self-interest or by using forged or falsified documentation, an unjustified, large subsidy for themselves or another,

However, as subsidies in Germany are also granted as tax benefits and can therefore lead to a loss of revenue for the EU and fraud to the detriment of the financial interests is also committed via VAT, the criminal and administrative offense provisions of criminal tax law must also be taken into account. These can be found in the German Fiscal Code (Sections 370, 378, 379, 380, 382 Fiscal Code) and the German VAT Act (Sections 26a, 26cVAT Act). In particular, the VAT act contains, in article 26c43, a regulation on penalizing the non-payment of VAT, which does not exist in Germany for other taxes.

Finally, in 2019, the German legislator passed a law to strengthen the protection of the European Union's financial interests (EU Financial Protection Strengthening Act – EUFinSchStG - Gesetz zur Stärkung des Schutzes der finanziellen Interessen der Europäischen Union) to close the last gaps in protection.

In Germany, VAT fraud is prosecuted for **both intent and negligence.**

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2. abuse their powers or position as a public official or European official or
3. take advantage of the assistance of a public official or European official who abuses his or her powers or position.
(3) Section 263 (5) applies accordingly.
(4) In the cases under subsection (1) no. 2, the attempt is punishable.
(5) Whoever acts recklessly in the cases under subsection (1) nos. 1 to 3, incurs a penalty of imprisonment for a term not exceeding three years or a fine.
(6) Whoever voluntarily prevents the granting of a subsidy on the basis of the offence incurs no penalty under subsections (1) and (5). If the subsidy is not granted without any action on the offender's part, no penalty is incurred if the offender makes voluntary and earnest efforts to prevent the subsidy from being granted.
(7) In addition to a sentence of imprisonment of at least one year for an offence under subsections (1) to (3), the court may order the loss of the ability to hold public office and be elected in public elections (section 45 (2)). Objects relating to the offence may be confiscated; section 74a applies.
(8) 'Subsidy' within the meaning of this provision means:
1. a benefit from public funds under federal or Länder law for businesses or enterprises which, at least in part,
a) is granted without market-related consideration and
b) is intended to promote the economy,
2. a benefit from public funds under the law of the European Union, which is granted, at least in part, without market-related consideration.
A public enterprise is also deemed to be a business or enterprise within the meaning of sentence 1 no. 1.
(9) Facts are relevant to a subsidy within the meaning of subsection (1)
1. if they are designated as being relevant to a subsidy by law or by the subsidy giver on the basis of a law or
2. if the approval, granting, reclaiming, renewal or continuation of a subsidy or of an advantage of subsidisation is dependent on them for reasons of law or under the subsidy contract.

[42] Section 266 C.C.:
Embezzlement/Misuse
(1) Whoever abuses the power conferred on them by law, by commission of an authority or legal transaction to dispose of the assets of another or to make binding agreements for another, or whoever breaches their duty to safeguard the pecuniary interests of another which are incumbent upon them by reason of law, by commission of an authority, legal transaction or fiduciary relationship, and thereby adversely affects the person whose pecuniary interests they were responsible for, incurs a penalty of imprisonment for a term not exceeding five years or a fine.
(2) Section 243 (2), sections 247 and 248a, and section 263 (3) apply accordingly.

[43] Section 26c VAT Act:
Criminal provisions
A custodial sentence not exceeding five years or a monetary penalty shall be imposed on anyone who, in the cases referred to in section 26a (1), acts commercially or as a member of a gang that has joined together to commit such offences on an ongoing basis.

The **penalties** are dissuasive and provide for maximum prison sentences of at least five years for fraud, computer fraud, subsidy fraud, embezzlement and tax evasion, and up to 10 years for the cases covered by Art. 7 para. 3 of PIF Directive.

Regarding compliance with **Art. 6 of the PIF Directive,** involving the liability of legal persons, **Germany had already compliant provisions before the directive** (Articles 30[44] and 130[45] of Act on Regulatory Offense).

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[44] Section 30 Act on Regulatory Offence:
Regulatory Fine Imposed on Legal Persons and on Associations of Persons
(1) Where someone acting:
1. as an entity authorised to represent a legal person or as a member of such an entity,
2. as chairman of the executive committee of an association without legal capacity or as a member of such committee,
3. as a partner authorised to represent a partnership with legal capacity, or
4. as the authorised representative with full power of attorney or in a managerial position as procura-holder or the authorised representative with a commercial power of attorney of a legal person or of an association of persons referred to in numbers 2 or 3,
5. as another person responsible on behalf of the management of the operation or enterprise forming part of a legal person, or of an association of persons referred to in numbers 2 or 3, also covering supervision of the conduct of business or other exercise of controlling powers in a managerial position, has committed a criminal offence or a regulatory offence as a result of which duties incumbent on the legal person or on the association of persons have been violated, or where the legal person or the association of persons has been enriched or was intended to be enriched, a regulatory fine may be imposed on such person or association.
(2) The regulatory fine shall amount:
1. in the case of a criminal offence committed with intent, to not more than ten million Euros,
2. in the case of a criminal offence committed negligently, to not more than five million Euros.
Where there has been commission of a regulatory offence, the maximum regulatory fine that can be imposed shall be determined by the maximum regulatory fine imposable for the regulatory offence concerned. If the Act refers to this provision, the maximum amount of the regulatory fine in accordance with the second sentence shall be multiplied by ten for the offences referred to in the Act. The second sentence shall also apply where there has been commission of an act simultaneously constituting a criminal offence and a regulatory offence, provided that the maximum regulatory fine imposable for the regulatory offence exceeds the maximum in accordance with the first sentence.
(2a) In the event of a universal succession or of a partial universal succession by means of splitting (section 123 subsection 1 of the Reorganisation Act [Umwandlungsgesetz]), the regulatory fine in accordance with subsections 1 and 2 may be imposed on the legal successor(s). In such cases, the regulatory fine may not exceed the value of the assets which have been assumed, as well as the amount of the regulatory fine which is suitable against the legal predecessor. The legal successor(s) shall take up the procedural position in the regulatory fine proceedings in which the legal predecessor was at the time when the legal succession became effective.
(3) Section 17 subsection 4 and section 18 shall apply mutatis mutandis.
(4) If criminal proceedings or regulatory fining proceedings are not commenced on account of the criminal offence or of the regulatory offence, or if such proceedings are discontinued, or if imposition of a criminal penalty is dispensed with, the regulatory fine may be assessed independently. Statutory provision may be made to the effect that a regulatory fine may be imposed in its own right in further cases as well. Independent assessment of a regulatory fine against the legal person or association of persons shall however be precluded where the criminal offence or the regulatory offence cannot be prosecuted for legal reasons; section 33 subsection 1 second sentence shall remain unaffected.
(5) Assessment of a regulatory fine incurred by the legal person or association of persons shall, in respect of one and the same offence, preclude a confiscation order, in accordance with sections 73 or 73c of the Penal Code or in accordance with section 29a, against such person or association of persons.
(6) On issuance of a regulatory fining notice, in order to secure the regulatory fine, section 111e subsection 2 of the Code of Criminal Procedure shall be applied on proviso that the judgment is substituted by the regulatory fining notice.
[45] Section 130 Act on Regulatory Offence:
Violation of obligatory supervision in operations and enterprises
(1) Whoever, as the owner of an operation or undertaking, intentionally or negligently omits to take the supervisory measures required to prevent contraventions, within the operation or undertaking, of duties

The sanctions, indicated in **Article 9** of the PIF Directive and applicable in Germany are:

- non-criminal fine: 10 million euros for each offense;
- confiscation measures that may be imposed in addition to the fine;
- exclusion from entitlement to public benefits or aid;
- temporary or permanent exclusion from public tender procedures;
- temporary or permanent disqualification from the practice of commercial activities.

In Germany, there is also an **aggravating circumstance** for the commission of these crimes by organized criminal groups.

Greece

With respect to **compliance with Article 3 of the PIF Directive on the** commission of fraud to the detriment of the EU's financial interests, Greece has achieved compliance by the **introduction of new legislation.** Indeed, in December 2021, the European Commission initiated an infringement procedure.

The national expert highlighted that the Greek law establishes a "complex model" to protect EU financial interests, which includes:

- provisions aligning EU property protection with Greek public property laws, covering most offenses against EU financial interests under the Penal Code or the National Customs Code;
- subsidiary provisions for offenses not covered by existing criminal laws, applicable if heavier penalties are not already established;
- specific provisions to address cross-border VAT fraud, requiring new regulations for this type of crime.

Rather than creating a special criminal law like Law 2803/2000, Greece opted to address cross-border VAT fraud through Article 23[46] (passed by Law 4689/2000), providing a more focused and severe penalty. This choice aims to extend VAT protection to other EU member states' VAT revenues

incumbent on the owner and the violation of which carries a criminal penalty or a regulatory fine, shall be deemed to have committed a regulatory offence in a case where such contravention has been committed as would have been prevented, or made much more difficult, if there had been proper supervision. The required supervisory measures shall also comprise appointment, careful selection and surveillance of supervisory personnel.
(2) An operation or undertaking within the meaning of subsection 1 shall include a public enterprise.
(3) Where the breach of duty carries a criminal penalty, the regulatory offence may carry a regulatory fine not exceeding one million Euros. Section 30 subsection 2 third sentence shall be applicable. Where the breach of duty carries a regulatory fine, the maximum regulatory fine for breach of the duty of supervision shall be determined by the maximum regulatory fine imposable for the breach of duty. The third sentence shall also apply in the case of a breach of duty carrying simultaneously a criminal penalty and a regulatory fine, provided that the maximum regulatory fine imposable for the breach of duty exceeds the maximum in accordance with the first sentence.

[46] Article 23 of Law 4689/2000:
"Whoever, during the execution of an organized plan involving transactions carried out in the territory of at least two (2) Member States of the European Union, results in a loss of VAT resources exceeding a total of ten million (10,000,000) euros a) by using or presenting false, incorrect/inaccurate or incomplete VAT statements or documents or non-disclosure of information related to VAT in violation of a specific obligation to communicate them or b) presenting correct VAT related statements for the purpose of fraudulently disguising the non-payment of VAT or the illegal/wrongful creation of rights to a VAT refund, shall be punished with imprisonment of at least ten (10) years and a fine of one thousand (1000) daily units".

and to remove procedural requirements that would be impractical for offenses involving multiple EU MSs.

The legislation also specifies strict conditions for VAT fraud, such as executing an organized plan, involving transactions across at least two EU member states, and causing VAT losses exceeding EUR 10 million. This mirrors the PIF Directive's criteria.

Other cases of tax fraud are covered by Article 24 of Law 4689/2000 and general provisions (Article 26), which refer to various sections of the Greek Penal Code and transpose additional parts of the EU Directive. In particular, article 23 aligns with Recital 5 of the Directive, which outlines VAT offenses committed through fraudulent schemes across multiple member states. If these conditions are met, the case falls under Greek jurisdiction or the European Public Prosecutor's Office.

Offenses that do not meet these criteria are addressed by Article 66[47] of the Greek Code of Tax Procedures, which applies to broader VAT fraud cases under Greek court jurisdiction.

According to the new legislation, for the identification of the new tax crime (VAT fraud), three conditions must be met:

- the execution of an organized plan;
- the realization of transactions in the territory of at least two (2) Member States of the European Union;
- a loss of VAT resources exceeding a total of ten million (10,000,000) euros.

The above three conditions are in line with the recital of the EU Directive 2017/1371.

Also, in relation to Article 3 of the PIF Directive for criminal prosecution, Greek national legislation **prescribes specific and binding actions** in their penal codes in relation to VAT fraud, but they are the same foreseen by Article 3 of the PIF Directive.

Article 23 of Law 4689/2000 provides the following:

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[47] Article 66 of Greek Code of Tax Procedures:
"1. A tax evasion crime is committed by anyone who intentionally:
a) in order to avoid the payment of the income tax...,
b) in order to avoid the payment of the VAT, the FKE, the insurance premium tax and the withheld and imposed taxes, fees or contributions, he does not pay or pays incorrectly or offsets or deducts them incorrectly, as and whoever misleads the Tax Administration by representing false facts as true or by wrongfully suppressing or concealing true facts and fails to remit or misrepresents or inaccurately sets off or deducts them or receives a refund, as well as who withholds such taxes, fees or contributions,
c) [...]
2 [...]
3. Whoever commits the crime of tax evasion referred to in paragraph 1 shall be punished by imprisonment of at least two (2) years or a fine:
a) [...]
b) if the amount to be paid of the main tax, fee or levy that was not paid or paid incorrectly or returned or set off or deducted or withheld exceeds per tax or administrative year:
aa) fifty thousand (50,000) euros, if it concerns VAT,
bb) one hundred thousand (100,000) euros per type of tax, fee or levy in any other case.
4. Imprisonment is imposed, if the amount of the tax, fee or levy referred to in paragraph 3 exceeds per fiscal or administrative year one hundred thousand (100,000) euros, if it concerns VAT, or one hundred and fifty thousand (150,000) euros in any other case of tax, fee or levy.
5 [...]
6. For the measurement of the penalty, the amount of the amount that was concealed or not returned and the duration of the concealment or non-return or inaccurate return or retention are taken into account. The treatment by the perpetrator of special tricks constitutes an aggravating circumstance".

- by using or presenting false, incorrect/inaccurate or incomplete VAT statements or documents or non-disclosure of information related to VAT in violation of a specific obligation to communicate them;
- present correct VAT related statements to fraudulently disguise the non-payment of VAT or the illegal/wrongful creation of rights to a VAT refund.

About the subjective element, Greece provides that **only intentional acts** are punishable.

Regarding compliance with the required sanctions for the commission of fraud, described in art. 7 of the Directive, concerning Greece, the national laws do **not provide for a maximum sentence but only for a minimum sentence of 10 years for cross-border fraud.**

About compliance with **Art. 6 of the PIF Directive**, involving the liability of legal persons: **Greece amended its pre-existing legislation even if it was already adequate.** The national expert highlighted also that, while there is no specific provision for VAT fraud, with the joint provision of the crimes provided for terrorism and money laundering there could be the possibility of allowing criminal liability for legal persons (Law 4557/2018, amended by Laws 4816/2021 and 5090/2024).

About the **sanctions** as indicated in Article 9 of the PIF Directive, Greece provides:

- non-criminal fine (without specification);
- exclusion from entitlement to public benefits or aid;
- temporary or permanent exclusion from public tender procedures;
- temporary or permanent disqualification from the practice of commercial activities;
- judicial winding-up.

Greece has a **specific aggravating circumstance** related to being part of a criminal association which can be then applied to all felonies.

Finally, article 23 of Law 4689/2000 provide also as a condition for VAT fraud the execution of an organized plan, which transposes the provision of the EU Directive that "offenses are committed in a structured way". Article 66 foresees an aggravating circumstance in the case of the execution of an organized plan.

Hungary

With respect to **compliance with Article 3 of the PIF Directive, Hungary is compliant, having legislation already adequate.**

Initially, in May 2022, the European Commission launched an infringement procedure against Hungary, which, however, responded by explaining why it should be considered compliant with the Directive.

The national experts highlighted that, although it is generally true that the Hungarian Criminal Code does not specifically regulate cross-border VAT fraud, the definition of "budget" under paragraph (9) point a) of Article 396[48] includes budgets and funds managed by or on behalf of the European

[48] Section 396 C.C.:
Budget Fraud
(1) Any person who:
a) induces a person to hold or continue to hold a false belief, or suppresses known facts in connection with any
budget payment obligation or with any funds paid or payable from the budget, or makes a false statement to this

Union. This article, "Budget fraud" includes also activities such as the omission of facts, the statement of untrue information, or obtaining improper benefits (some of the conducts indicated in Art. 3 of the PIF Directive).

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extent.
b) unlawfully claims any advantage made available in connection with budget payment obligations; or
c) uses funds paid or payable from the budget for purposes other than those authorized.
and thereby causes financial loss to one or more budgets, is guilty of misdemeanor punishable by imprisonment not exceeding two years.
(2) The penalty shall be imprisonment not exceeding three years for a felony if:
a) the budget fraud results in considerable financial loss; or
b) the budget fraud defined in Subsection (1) is committed in criminal association with accomplices or on a commercial scale.
(3) The penalty shall be imprisonment between one to five years if:
a) the budget fraud results in substantial financial loss; or
b) the budget fraud results in considerable financial loss and is committed in criminal association with accomplices
or on a commercial scale.
(4) The penalty shall be imprisonment between two to eight years if:
a) the budget fraud results in particularly considerable financial loss; or
b) the budget fraud results in substantial financial loss and is committed in criminal association with accomplices
or on a commercial scale.
(5) The penalty shall be imprisonment between five to ten years if:
a) the budget fraud results in particularly substantial financial loss; or
b) the budget fraud results in particularly considerable financial loss and is committed in criminal association with
accomplices or on a commercial scale.
(6) Any person who manufactures, obtains, stores, sells or trades any excise goods in the absence of the criteria
specified in the Act on Excise Taxes and Special Regulations on the Marketing of Excise Goods or in other legislation enacted by authorization of this Act, or without an official permit, and thereby causes financial loss to the
central budget, shall be punishable in accordance with Subsections (1)-(5).
(7) Any person who either does not comply or inadequately complies with the settlement, accounting or notification obligations relating to funds paid or payable from the budget, or makes a false statement to this extent, or uses a false, counterfeit or forged document or instrument, is guilty of a felony punishable by imprisonment not
exceeding three years. (8) The penalty may be reduced without limitation if the perpetrator provides compensation for the financial loss
caused by the budget fraud referred to in Subsections (1)-(6) before the indictment is filed. This provision shall not
apply if the criminal offense is committed in criminal association with accomplices or on a commercial scale.
(9) For the purposes of this Section:
a) 'budget' shall mean the sub-systems of the central budget - including the budgets of social security funds and
extra-budgetary funds -, budgets and/or funds managed by or on behalf of international organizations and budgets
and/or funds managed by or on behalf of the European Union. In respect of crimes committed in connection with
funds paid or payable from a budget, 'budget' shall also mean - in addition to the above - budgets and/or funds
managed by or on behalf of a foreign State.
b) 'financial loss' shall mean any loss of revenue stemming from non-compliance with any budget payment obligation, as well as the claiming of funds from a budget unlawfully or the use of funds paid or payable from a
budget for purposes other than those authorized.

VAT fraud in Hungary is classified as **a general offense (free-form**), meaning no specific behaviors or actions are explicitly defined.

With regard to the subjective element, Hungary provides that **only intentional acts** are punishable.

Regarding compliance with the required sanctions for the commission of fraud, described in art. 7 of the Directive, **Hungary provides for a maximum sentence of 5 years of imprisonment.** But the penalty varies on the seriousness of the offense:

- for a term of one to five years if the budgetary fraud causes substantial financial loss (HUF 5 million to HUF 50 million, approximately EUR 12,500 to EUR 125,000);
- for a term of two years to eight years if the budget fraud causes particularly serious financial loss (HUF 50 million to HUF 500 million, approximately EUR 125,000 to 1,250,000);
- for a term of five to ten years if the budget fraud causes particularly serious financial loss (over HUF 500 million, approximately EUR 1,250,000).

Also, with respect to compliance with **Art. 6 of the PIF Directive**, involving the liability of legal persons, Hungary **already had compliant provisions before the Directive.**

According to national legislation, legal persons may be held liable if the offense was committed to benefit the legal person, or if the legal person was used to commit the offense. The offense must have been committed by authorized representatives, employees, or managers during the legal person's business activities. Liability may arise if the offence could have been prevented by proper management or control by the legal person's management or supervisory bodies.

Measures can also be applied if the managing director or authorized member of the legal person, or any employee or officer, was aware of the offense being committed for the benefit of the legal person.

Article 9 of the PIF Directive provides some sanctions related to legal persons. In Hungary, those are:

- up to three times the amount achieved or intended to achieve by committing the crime, but at least HUF 650'000 (approx. EUR 1,625);
- exclusion from entitlement to public benefits or aid;
- temporary or permanent exclusion from public tender procedures;
- temporary or permanent disqualification from the practice of commercial activities;
- judicial winding-up.

Finally, Hungary foresees the possibility of applying an **aggravating circumstance** in cases where organised groups are involved.

Ireland

With respect to **compliance with Article 3 of the PIF Directive Ireland is compliant by amendment of pre-existing discipline.**

The relevant legislative references are: Section 42[49], Criminal Justice (Theft and Fraud Offenses) Act, as amended by Section 3, Section 40[50], Criminal Justice (Theft and Fraud Offenses) Act, as amended by Section 2, Criminal Justice (Theft and Fraud Offenses) (Amendment) Act 2021.

In Ireland, **VAT fraud is classified as a general offense (free-form),** meaning no specific behaviors or actions are explicitly defined.

About the subjective element, Ireland provides that **only intentional acts** are punishable.

Ireland is compliant with Art. 7 of the PIF Directive, having a maximum sentence of **5 years of imprisonment** in cases where the fraud committed against the financial interests of the EU had led to a damage of over 100.000 € (threshold established for the "considerable damage").

The **liability of legal persons** was foreseen by the introduction of new legislation. The relevant legal reference is Article 42 B[51], of Criminal Justice (Theft and Fraud Offenses) Act 2001 Act, inserted by Section 7 of Criminal Justice (Theft and Fraud Offenses), (Amendment) Act 2021.

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[49] 42(1) - Subject to subsection (2), a person who intentionally commits any fraud affecting the financial interests of the European Union is guilty of an offence and is liable on conviction on indictment to a fine or to imprisonment for a term not exceeding 5 years or both.
42(2) - Where an offence under subsection (1) relates to acts or omissions to which Article 3(2)(d) of the Directive applies, the offence is not committed unless such acts or omissions are connected with the territory of two or more Member States and involve a total damage of not less than €10,000,000.

[50] 40(1) – In this part [...]
"Directive" means Directive (EU) 2017/1371 of the European Parliament and of the Council of 5 July 2017 on the fight against fraud to the Union's financial interests by means of criminal law, the text of which is, for convenience of reference, set out in Schedule 1A.
"Fraud affecting the financial interests of the European Union" has the same meaning as "fraud affecting the Union's financial interests" in Article 3(2) of the Directive.

[51] 42B of Criminal Justice (Theft and Fraud Offences) Act
(1) Where a relevant offence is committed for the benefit of a body corporate by a relevant person and the commission of the relevant offence is attributable to the failure, by a director, manager, secretary or other officer of the body corporate, or a person purporting to act in that capacity, to exercise, at the time of the commission of the relevant offence and in all the circumstances of the case, the requisite degree of supervision or control of the relevant person, the body corporate shall be guilty of an offence.
(2) In proceedings for an offence under subsection (1), it shall be a defense for a body corporate against which such proceedings are brought to prove that it took all reasonable steps and exercised all due diligence to avoid the commission of the offence.
(3) Where an offence under section 42 or 42A, or an offence of inciting, aiding and abetting, or attempting the commission of such an offence, is committed by a body corporate and it is proved that the offence was committed with the consent or connivance, or was attributable to any willful neglect, of a person who was a director, manager, secretary or other officer of the body corporate, or a person purporting to act in that capacity, that person shall, as well as the body corporate, be guilty of an offence and shall be liable to be proceeded against and punished as if he or she were guilty of the first-mentioned offence.
(4) Where the affairs of a body corporate are managed by its members, subsection (3) shall apply in relation to the acts and defaults of a member in connection with his or her functions of management as if he or she were a director or manager of the body corporate.
(5) Subsection (1)—
(a) is without prejudice to the other circumstances, under the general law, whereby acts or omissions of a natural person are attributed to a body corporate resulting in criminal liability of that body corporate for those acts or omissions, and
(b) does not exclude criminal proceedings against natural persons who are involved as perpetrators, inciters or accessories in an offence referred to in that subsection.
(6) A person guilty of an offence under subsection (1) is liable on conviction on indictment to a fine.
(7) In this section—
"Relevant person", in relation to a body corporate, means—
(a) a director, manager, secretary or other officer of the body corporate, or a person purporting to act in that capacity, or

The sanctions foreseen are:

- criminal fine (no specification available);
- non-criminal fine (no specification available);
- exclusion from entitlement to public benefits or aid;
- temporary or permanent exclusion from public tender procedures;
- temporary or permanent disqualification from the practice of commercial activities;
- placing under judicial supervision;
- judicial winding-up;
- temporary or permanent closure of establishments that have been used for committing the criminal offense.

Ireland provides for an **aggravating circumstance** if the offense is committed within the framework of an organized criminal group, under the Criminal Justice (Organised Crime) Act 2006.

Italy

Italy is compliant with **Article 3 of the PIF Directive. To be compliant,** Italy amended its pre-existing discipline. The PIF Directive was transposed into Italian law by Law No. 3 of January 9, 2020, which amended the Penal Code and Legislative Decree No. 74/2000 (on tax crimes). Specifically, the amendments were about these legal references: Art. 316 ter[52] (undue receipt of public funds) and

(b) an employee, subsidiary or agent of the body corporate.
"relevant offence" means:
(a) an offence under section 42 or 42A,
(b) a money laundering offence involving property derived from the proceeds of an offence referred to in paragraph (a), (c) or (d),
(c) a corruption offence that damages, or is likely to damage, the financial interests of the European Union, or
(d) an offence of inciting, aiding and abetting, or attempting the commission of an offence referred to in paragraph (a), (b) or (c).
"subsidiary", in relation to a body corporate, has the same meaning as it has in the Companies Act 2014.

[52] Art. 316 ter C.C:
(Modified by art. 3, c. 1, lett. f) Law n. 117/2019 – following PIF)
Unless the fact constitutes the crime provided for by article 640 bis, anyone who, through the use or presentation of false declarations or documents or attesting to untrue things, or through the omission of required information, unduly obtains, for himself or for others, contributions, grants, loans, subsidized mortgages or other disbursements of the same type, however named, granted or disbursed by the State, other public bodies or the European Communities is punished with imprisonment from six months to three years. The penalty is imprisonment from one to four years if the act is committed by a public official or by a person in charge of a public service with abuse of his capacity or powers. The penalty is imprisonment from six months to four years if the act offends the financial interests of the European Union and the damage or profit exceeds 100,000 euros. When the sum unduly received is equal to or less than €3,999.96, only the administrative sanction of paying a sum of money from €5,164 to €25,822 is applied. However, this penalty cannot exceed three times the benefit achieved.

640[53] (fraud) Italian Criminal Code and Art. 2[54] (fiscal fraud), 3[55] (failure to file a declaration), 4[56] (falsification or use of false documents) D. lgs. 74/2000 as amended by D. lgs. 75/2020 and D. lgs. 156/2022.

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[53] Art. 640 C.C.:
Anyone who, through artifice or deception, misleading someone, procures for himself or others an unfair profit to the detriment of others, is punished with imprisonment from six months to three years and with a fine ranging from 51 euros to 1,032 euros.
The penalty is imprisonment from one to five years and a fine from €309 to €1,549:
1) if the act is committed to the detriment of the State or another public body or of the European Union or with the pretext of exempting someone from military service.
2) if the act is committed generating in the offended person the fear of an imaginary danger or the erroneous belief of having to carry out an order from the Authority.
2-bis) if the act is committed in the presence of the circumstance referred to in article 61, number 5.
2-ter) if the act is committed remotely through IT or telematic tools capable of hindering one's own or others' identification.
The crime is punishable upon complaint by the offended person, unless some of the circumstances provided for in the second paragraph apply, with the exception of that referred to in number 2-ter).
[54] Art. 2 D. lgs. 74/2000:
1. Anyone who, in order to evade income or value added taxes, using invoices or other documents for non-existent transactions, indicates fictitious passive elements in one of the declarations relating to said taxes, is punished with imprisonment from four to eight years.
2. The act is considered to have been committed by making use of invoices or other documents for non-existent transactions when such invoices or documents are recorded in the mandatory accounting records or are held for the purpose of proof against the financial administration.
2-bis. If the amount of the fictitious passive elements is less than one hundred thousand euros, imprisonment from one year and six months to six years is applied.
[55] Art. 3 D. lgs. 74/2000:
1. Except for cases provided for in article 2, anyone who, with the aim of evading income or value added taxes, carries out objectively or subjectively simulated operations or makes use of false documents or other fraudulent means capable of hindering the assessment and misleading the financial administration, indicates in one of the declarations relating to said taxes active elements for an amount lower than the actual one or fictitious passive elements or fictitious credits and withholdings, when, jointly:
a) the tax evaded is greater, with reference to some of the individual taxes, than thirty thousand euros.
b) the total amount of the active elements subtracted from taxation, also through the indication of fictitious passive elements, is greater than five percent of the total amount of the active elements indicated in the declaration, or in any case, is greater than one million five hundred thousand euros, or if the total amount of credits and fictitious withholdings reducing the tax is greater than five percent of the amount of the tax itself or in any case more than thirty thousand euros.
2. The act is considered to have been committed using false documents when such documents are recorded in the mandatory accounting records or are held for the purposes of proof against the financial administration.
3. For the purposes of applying the provision of paragraph 1, the mere violation of the invoicing and annotation obligations of the active elements in the accounting records or the sole indication in the invoices or annotations of active elements that are lower than the real ones do not constitute fraudulent means.
[56] Art. 4 D. lgs. 74/2000:
1. Except for cases provided for in articles 2 and 3, anyone who, in order to evade income or value added taxes, indicates in one of the annual declarations relating to said taxes active elements for an amount lower than the actual amount or non-existent passive elements, when jointly:
a) the tax evaded is greater, with reference to some of the individual taxes, than one hundred thousand euros.
b) the total amount of the active elements subtracted from taxation, also through the indication of non-existent passive elements, is greater than ten percent of the total amount of the active elements indicated in the declaration, or, in any case, is greater than two million euros.
1-bis. For the purposes of applying the provision of paragraph 1, incorrect classification and the evaluation of objectively existing active or passive elements are not taken into account, with respect to which the criteria actually applied have in any case been indicated in the financial statements or in other documentation relevant for the purposes tax, the violation of the criteria for determining the relevant financial year, the non-inherence, the non-deductibility of real passive elements.

Article 640 bis[57], which concerns fraud to the detriment of the State or a public entity, and provides penalties for those who, through deceit or tricks, unlawfully obtain public funds or avoid payment of amounts due to the State, can also be seen as one of the tools used in Italy to implement the obligations arising from the PIF Directive, even though it does not explicitly refer to it. The PIF Directive promotes cooperation among Member States and coordinated action to combat financial fraud, and Article 640-bis is one of the provisions that allows the Italian legal system to comply with these obligations.

In relation to the conducts foreseen by Article 3 of the PIF Directive for criminal prosecution, Italian national legislation covers all of them.

About the subjective element, Italy provides that **only intentional acts** are punishable.

Italy is compliant with Article 7 of the Directive having a maximum sentence of at least **8 years of imprisonment** in cases where the fraud committed against the financial interests of the EU had led to damage of over 100.000 € (threshold established for the "considerable damage"), and up to 6 years when the damage is lower than the threshold.

Italian legislation has been amended to include the specific responsibility of legal entities in cases of VAT fraud and frauds involving EU funds (Article 7 of Legislative Decree 74/2000) to be compliant with Art. **6 of the PIF Directive**. However, in general, the administrative liability of legal entities for crimes is regulated by Legislative Decree 231/2001.

About **sanctions** indicated in Article 9 of the PIF Directive, the relevant legal reference is Article 25 quinquies decies[58] D.lgs.231/2001.

1-ter. Except for the cases referred to in paragraph 1-bis, assessments which, taken as a whole, differ by less than 10 percent from the correct ones do not give rise to punishable offences.
The amounts included in this percentage are not taken into account when verifying whether the criminality thresholds set out in paragraph 1, letters a) and b) have been exceeded."

[57] Art. 640bis C.C.:
The penalty is imprisonment from two to seven years and action is taken automatically if the fact referred to in article 640 concerns contributions, grants, loans, subsidized mortgages or other disbursements of the same type, however named, granted or disbursed by the State, other public bodies or the European Communities.

[58] Art. 25-quinquies decies D.lgs. 231/2001:
1. In relation to the commission of the crimes envisaged by the legislative decree of 10 March 2000, n. 74, the following financial sanctions apply to the entity:
a) for the crime of fraudulent declaration through the use of invoices or other documents for non-existent transactions provided for in article 2, paragraph 1, a financial penalty of up to five hundred quotas.
b) for the crime of fraudulent declaration through the use of invoices or other documents for non-existent transactions, provided for in article 2, paragraph 2-bis, a financial penalty of up to four hundred quotas.
c) for the crime of fraudulent declaration through other devices, provided for in article 3, a financial penalty of up to five hundred quotas.
d) for the crime of issuing invoices or other documents for non-existent operations, provided for in article 8, paragraph 1, a financial penalty of up to five hundred quotas.
e) for the crime of issuing invoices or other documents for non-existent transactions, provided for in article 8, paragraph 2-bis, a financial penalty of up to four hundred quotas.
f) for the crime of concealment or destruction of accounting documents, provided for in article 10, a financial penalty of up to four hundred quotas.
g) for the crime of fraudulent evasion of the payment of taxes, provided for in article 11, a pecuniary sanction of up to four hundred quotas.
1-bis. In relation to the commission of the crimes foreseen by the legislative decree of 10 March 2000, n. 74, when they are committed with the aim of evading value added tax as part of cross-border fraudulent systems connected to the territory of at least one other Member State of the European Union, which results or may result in overall damage equal to or greater than ten million euros, the following financial sanctions apply to the entity:

Italy has an **aggravating circumstance** in the case of VAT fraud committed by organized criminal groups. Indeed, under Law No. 146/2006, "Ratification and implementation of the United Nations Convention and Protocols against Transnational Organized Crime, adopted by the General Assembly on November 15, 2000, and May 31, 2001," all crimes committed within the framework of an organized criminal group are subject to more severe penalties.

Latvia

Regarding **compliance with Article 3** of the PIF Directive, Latvia initially faced an infringement procedure initiated by the European Commission in December 2021. However, Latvia has since taken corrective action, specifically with **new legislative provisions**, and is now fully compliant with both the PIF Directive and Article 3.

In particular, the compliance was possible thanks to the new Section 218.1[59] of the Criminal Law (CL) titled "Recording of a Fictitious Transaction in a Value Added Tax (VAT) Declaration", which came into force on August 5, 2021. It encompasses both VAT evasion and fraudulent claims for

a) for the crime of unfaithful declaration provided for in article 4, a financial penalty of up to three hundred quotas.
b) for the crime of failure to declare provided for in article 5, a pecuniary sanction of up to four hundred quotas.
c) for the crime of undue compensation provided for in article 10 quater, a pecuniary sanction of up to four hundred quotas.
2. If, following the commission of the crimes indicated in paragraphs 1 and 1-bis, the entity has achieved a significant profit, the pecuniary sanction is increased by one third.
3. In the cases provided for in paragraphs 1, 1-bis and 2, the disqualification sanctions referred to in article 9, paragraph 2, letters c), d) and e) shall apply.

[59] Article 218.1 C.C.:
Indication of a Transaction that Has not Actually Occurred in the Value Added Tax Return
(1) For a person who commits the indication in the value added tax return of a transaction taxable with value added tax which has not actually occurred, if the total value of the transaction indicated in the return and not having occurred or of several such transactions reaches a large amount,
the applicable punishment is the deprivation of liberty for a period of up to two years or temporary deprivation of liberty, or community service, or fine.
(2) For a person who commits the indication in the value added tax return or in several such returns of a transaction taxable with value added tax which has not actually occurred, if losses have been caused thereby to the State on a significant scale, the applicable punishment is the deprivation of liberty for a period of up to five years or temporary deprivation of liberty, or community service, or fine, with deprivation of the right to engage in entrepreneurial activity of a specific type or of all types or to a specific employment, or the right to take up a specific office for a period of two years and up to five years.
(3) For a person who commits the acts provided for in Paragraph two of this Section, if losses have been caused thereby to the State on a significant scale, or for the criminal offence provided for in Paragraph one or two of this Section, if it has been committed by an organised group, the applicable punishment is the deprivation of liberty for a period of up to ten years, with or without confiscation of property and with deprivation of the right to engage in entrepreneurial activity of a specific type or of all types or to a specific employment, or the right to take up a specific office for a period of two years and up to five years, and with probationary supervision for a period of up to three years.

VAT refunds. Additionally, Sections 177[60] (fraud), 217[61] (Violation of provisions regarding accounting and statistical information for a person who commits hiding or forging of accounting documents), 218[62] (Evasion of tax payments and payments equivalent thereto), 195.1[63] (Non-

[60] Section 177 C.C.:
Fraud
(1) For a person who commits acquiring property of another, or of rights to such property, by the use, in bad faith, of trust, or by deceit (fraud),
the applicable punishment is the deprivation of liberty for a period of up to three years or temporary deprivation of liberty, or probationary supervision, or community service, or fine.
(2) For a person who commits fraud if it has been committed on a significant scale or if it has been committed by a group of persons according to a prior agreement, the applicable punishment is the deprivation of liberty for a period of up to five years or temporary deprivation of liberty, or probationary supervision, or community service, or fine, with or without confiscation of property.
(3) For a person who commits fraud, if it has been committed on a large scale, or it has been committed by an organised group, or it has been committed, acquiring narcotic, psychotropic, powerfully acting, poisonous or radioactive substances or explosive substances, firearms or ammunition, the applicable punishment is the deprivation of liberty for a period of two years and up to ten years, with or without confiscation of property and with or without probationary supervision for a period of up to three years.
[61] Section 217 C.C.:
Violation of Provisions Regarding Accounting and Statistical Information
(1) For a person who commits hiding or forging of accounting documents, annual accounts, statistical reports or statistical information specified in the law for an undertaking (company), institution or organisation, the applicable punishment is the deprivation of liberty for a period of up to one year or temporary deprivation of liberty, or community service, or fine.
(2) For the commission of the same acts if they have caused substantial harm, the applicable punishment is the deprivation of liberty for a period of up to four years or temporary deprivation of liberty, or community service, or fine. (3) For a person who commits the criminal offence provided for in Paragraph two of this Section, if it has been committed for acquiring property, the applicable punishment is the deprivation of liberty for a period of up to five years or temporary deprivation of liberty, or community service, or fine.
[62] Section 218 C.C.:
Evasion of Tax Payments and Payments Equivalent Thereto
(1) [13 December 2012]
(2) For a person who commits evasion of tax payments and payments equivalent thereto or of concealing or reducing income, profits and other items subject to tax, if losses on a large scale are caused thereby to the State or local government,
the applicable punishment is the deprivation of liberty for a period of up to four years or temporary deprivation of liberty, or community service, or fine, with or without confiscation of property and with deprivation of the right to engage in entrepreneurial activity of a specific type or of all types or to a specific employment,
or the right to take up a specific office for a period of two years and up to five years.
(3) For the criminal offence provided for in Paragraph two of this Section, if it has been committed by an organised group,
the applicable punishment is the deprivation of liberty for a period of up to ten years, with or without confiscation of property and with deprivation of the right to engage in entrepreneurial activity of a specific type or of all types or to a specific employment, or the right to take up a specific office for a period of two years and
up to five years, and with probationary supervision for a period of up to three years.
[63] Section 195.1 C.C.:
Non-provision of Information and Provision of False Information Regarding Ownership of Resources and the True Beneficiary
(1) For a person who knowingly commits provision of false information to a natural or legal person which is authorised by law to request information regarding a transaction and the true owner and true beneficiary of the financial resources or other property involved therein, as well as non-provision of the information
specified in the law regarding the true beneficiary or provision of knowingly false information to a state institution or legal person, the applicable punishment is the deprivation of liberty for a period of up to one year or temporary deprivation of liberty, or probationary supervision, or community service, or fine.

provision of information and provision of false information regarding ownership of resources and the real beneficiary), 300[64] (Knowingly giving false testimony, opinion, translation, explanation, and application), 302[65] (Refusal to give testimony or opinions, or provide translations), and 328[66] (False official information) of the Criminal Law align with Article 3 of Directive 2017/1371, covering various tax fraud and false information provisions related to EU and national revenues, including violations of accounting rules, providing false information to state institutions, and failing to submit accurate declarations.

If none of the relevant criminal sections apply, Section 3 of the Administrative Procedure Law establishes administrative liability for failing to provide or provide false information.

VAT fraud is classified as a general offense (free-form), meaning no specific behaviors or actions are explicitly defined.

About the subjective element, Latvia provides that **only intentional acts** are punishable.

Latvia **is compliant also with Article 7, on sanctions**, having a maximum sentence of **at least 4 years of imprisonment** in cases where the fraud committed against financial interests of the EU had led to damage over 100.000 € (threshold established for the "considerable damage").

(2) For the commission of the same acts, if substantial harm has been caused thereby, the applicable punishment is the deprivation of liberty for a period of up to two years or temporary deprivation of liberty, or probationary supervision, or community service, or fine.

[64] Section 300 C.C.:
Knowingly Giving a False Testimony, Opinion, Translation, Explanation and Application
(1) For a person who knowingly gives a false testimony, opinion, translation, explanation or application during administrative offence proceedings in an institution, during pre-trial criminal proceedings, in court, to a notary or bailiff, if it has been committed by a person who has been warned about criminal liability for knowingly giving a false testimony, opinion, translation, explanation or application, the applicable punishment is the temporary deprivation of liberty or probationary supervision, or community service, or fine.
(2) For the commission of the same acts, if they have been committed during performance of pre-trial criminal proceedings or trial in court of matters concerning serious or especially serious crimes, or serious consequences result therefrom, or they have been committed for the purpose of acquiring property, the applicable punishment is the deprivation of liberty for a period of up to three years or temporary deprivation of liberty, or probationary supervision, or community service, or fine.

[65] Section 302 C.C.:
Refusal to Give Testimony or Opinions, or Provide Translations
(1) For a person who, being a witness, a victim or another person who has been warned against refusal to give testimony, commits unfounded refusal to give testimony in administrative offence proceedings in an institution, in a pre-trial investigating institution, the Office of the Prosecutor or at a trial, the applicable punishment is the temporary deprivation of liberty or probationary supervision, or community service, or fine.
(2) For a person who, being an expert or translator, commits unfounded refusal to perform the tasks assigned to him or her in administrative offence proceedings in an institution, in a pre-trial investigating institution, the Office of the Prosecutor or at a trial, the applicable punishment is the temporary deprivation of liberty or probationary supervision, or community service, or fine.

[66] Section 328 C.C.:
False Official Information
For a person who knowingly commits providing false information to an institution or a public official who has the right to request such information, or commits concealing or knowingly failing to inform of a document or information, if it has been committed by a public official whose responsibilities include the providing of such information, and substantial harm has been caused thereby, the applicable punishment is the deprivation of liberty for a period of up to one year or temporary deprivation of liberty, or probationary supervision, or community service, or fine.

With respect to compliance with Art. 6 of the PIF Directive, involving the **liability of legal persons**, Latvia already had compliant provisions before the Directive (Art.70.1[67] and Art.70.2[68] of the Criminal Law of Latvia).

About sanctions as indicated in Article 9 of the PIF Directive, article 70.2 in footnotes provides:

1) criminal fine for a criminal violation - in the amount of five and up to ten thousand minimum monthly wages;
2) for a less serious crime - in the amount of ten and up to fifty thousand minimum monthly wages;
3) for a serious crime - in the amount of twenty and up to seventy-five thousand minimum monthly wages;
4) for an especially serious crime - in the amount of thirty and up to a hundred thousand minimum monthly wages);
5) exclusion from entitlement to public benefits or aid;
6) temporary or permanent exclusion from public tender procedures;
7) temporary or permanent disqualification from the practice of commercial activities;
8) judicial winding-up.

Latvia has an **aggravating circumstance** for VAT fraud committed by organised criminal groups, according to Article 8 of PIF Directive.

[67] Section 70.1 C.C.:
Basis for the Application of a Coercive Measure to a Legal Person
For the criminal offences provided for in the Special Part of this Law, a court or in the cases provided for by the Law - a prosecutor may apply a coercive measure to a legal person governed by private law, including State or local government capital company, as well as partnership, if a natural person has committed the offence in the interests of the legal person, for the benefit of the person or as a result of insufficient supervision or control, acting individually or as a member of the collegial authority of the relevant legal person:
1) on the basis of the right to represent the legal person or act on the behalf thereof; 2) on the basis of the right to take a decision on behalf of the legal person.
3) in implementing control within the scope of the legal person.

[68] Section 70.2 C.C.:
Types of Coercive Measures Applicable to a Legal Person
(1) For a legal person one of the following coercive measures may be specified:
1) liquidation.
2) restriction of rights.
3) confiscation of property,
4) recovery of money.
(2) For a legal person one or several of the coercive measures provided for in Paragraph one of this Section may be applied. In applying liquidation, other coercive measures shall not be specified.
(3) The procedures for executing coercive measures shall be determined in accordance with the law.
(4) For a criminal violation, a less serious crime or a serious crime for which deprivation of liberty for a period of up to five years is provided for in the Special Part of this Law a prosecutor, in drawing up a penal order regarding the coercive measure, may determine the recovery of money or restriction of rights as a coercive measure to a legal person.

Lithuania

Concerning **compliance with Article 3 of the PIF Directive Lithuania is compliant**, by amendment of a pre-existing discipline. The relevant legal provisions are Articles 182[69] (Fraud), 183[70] (Misappropriation), 205[71] (Misleading declarations), 206[72] (Misuse of use of credit, loan or

[69] Article 182 C.C.:
Fraud
1. A person who, by deceit, acquires another's property for own benefit or for the benefit of other persons or acquires a property right, avoids a property obligation or annuls it, shall be punished by community service or by a fine or by restriction of liberty or by arrest or by a custodial sentence for a term of up to three years.
2. A person who, by deceit and for own benefit or for the benefit of other persons, acquires another's property of a high value, shall be punished by a fine, or restriction of liberty, or by arrest, or custodial sentence for a term of up to six years.
3. A person who, by deceit and for own benefit or for the benefit of other persons, acquires another's property of a very high value, or a property right or the valuables of a considerable scientific, historical or cultural significance or avoids a property obligation of a very high value or annuls it or swindles by participating in an organised group,
shall be punished by a custodial sentence for a term of up to eight years.
4. A person who, by deceit and for own benefit or for the benefit of other persons, acquires another's property of a low value or acquires a property right, avoids a property obligation of a low value or annuls it shall be considered to have committed a misdemeanor and shall be punished by community service or by a fine or by restriction of liberty or by arrest.
5. A person shall be held liable for the acts provided for in paragraphs 1 and 4 of this Article only under a complaint filed by the victim or a statement by the legal representative thereof or at the prosecutor's request.
6. Legal entities shall also be held liable for the acts provided for in paragraphs 1, 2 and 3 of this Article.
[70] Article 183 C.C.:
Misappropriation of Property
1. A person who misappropriates another's property or property right entrusted to him or held at his disposal shall be punished by community service or by a fine or by a custodial service for a term of up to three years.
2. A person who misappropriates another's property or property right of a high value entrusted to him,
shall be punished by a fine or by restriction of liberty or by arrest or by a custodial sentence for a term of up to six years.
3. A person who misappropriates another's property or property right of a very high value entrusted to him or held at his disposal or the valuables of a considerable scientific, historical or cultural significance, shall be punished by a fine or by a custodial sentence for a term of up to eight years.
4. A person who misappropriates another's property or property right of a low value entrusted to him or held at his disposal shall be considered to have committed a misdemeanor and shall be punished by community service or by a fine or by arrest.
5. Legal entities shall also be held liable for the acts provided for in paragraphs 1, 2 and 3 of this Article.
6. A person shall be held liable for the acts provided for in paragraphs 1 and 4 of this Article only under a complaint filed by the victim or a statement by the legal representative thereof or at the prosecutor's request.
[71] Article 205 C.C.:
Misleading Declaration about the Activities of a Legal Entity
1. A person who, on behalf of a legal entity, presents in an official report or in an application misleading data concerning the activities or assets of the legal entity and thereby misleads a State or European Union institution, international public organisation, creditor, member of the legal entity or another person who suffers major material damage as a result thereof, shall be punished by a fine or by restriction of liberty or by arrest or by a custodial sentence for a term of up to four years.
2. A legal entity shall also be held liable for an act provided for in this Article.
[72] Article 206 C.C.:
Use of a Credit, Loan or Targeted Support Not in Accordance with Its Purpose or the Established Procedure
1. A person who, upon obtaining a credit, loan or targeted support in the amount of 400 MSLs or more, uses it not in accordance with its purpose or the established procedure, shall be punished by a fine or by restriction of liberty or by arrest or by a custodial sentence for a term of up to one year.
2. A person who, upon obtaining a credit or loan, uses it not in accordance with its purpose or the established procedure and fails to repay it within the established time limit thereby incurring large material damage to the creditor, guarantor or another person, shall be punished by a fine or by restriction of liberty or by arrest or by a custodial sentence for a term of up to four years.

targeted support), 207[73] (credit fraud), 220[74] (Provision of inaccurate data on income, profit or assets), 221[75] (Failure to file a tax return or to submit a report or another document), 222[76]

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3. A person who obtains targeted support, subsidy or grant, uses it not in accordance with its purpose or the established procedure and as a result caused large material damage to a State or European Union institution, an international public organization or another legal or natural person, shall be punished by a fine or by restriction of liberty or by arrest or by a custodial sentence for a term of up to six years.
4. A person who obtains targeted support, subsidy or grant, uses it not in accordance with its purpose or the established procedure and as a result caused very large material damage to a State or European Union institution, an international public organization or another legal or natural person, or committed an act by participating in an organized group, shall be punished by a fine or by a custodial sentence for a term of up to seven years.
5. A legal entity shall also be held liable for the acts provided for in this Article.

[73] Article 207 C.C.:
Credit Fraud
1. A person who, by deceit, obtains a credit, loan, subsidy, warranty or bank guarantee statement or another credit obligation, shall be punished by a fine or by arrest or by a custodial sentence for a term of up to three years.
2. A person who, by deceit, obtains targeted support, subsidy or grant and as a result caused large material damage to a State or European Union institution, an international public organization or another legal or natural person,
shall be punished by a fine or by restriction of liberty or by arrest or by a custodial sentence for a term of up to six years.
3. A person who, by deceit, obtains targeted support, subsidy or grant and as a result caused very large material damage to a State or European Union institution, an international public organization or another legal or natural person, or committed an act by participating in an organized group, shall be punished by a fine or by a custodial sentence for a term of up to eight years.
4. A legal entity shall also be held liable for an act provided for in this Article.

[74] Article 220 C.C.:
Provision of Inaccurate Data on Income, Profit or Assets
1. A person who, seeking to evade the payment of taxes the amount whereof exceeds 400 MSLs, provides data on the person's income, profit, assets or the use thereof that are known to be inaccurate in a tax return or in a report approved in accordance with the specified procedure or in another document and submits such data to an institution authorised by the State shall be punished by a fine or by a custodial sentence for a term of up to four years.
2. A person who commits the act indicated in paragraph 1 of this Article, where the tax amount exceeds 900 MSLs or by participating in an organised group, shall be punished by a custodial sentence for a term of up to eight years.
3. A legal entity shall also be held liable for the acts provided for in this Article.

[75] Article 221 C.C.:
Failure to File a Tax Return or to Submit a Report or Another Document
1. A person who fails, in accordance with the procedure laid down by legal acts and seeking to evade the payment of taxes or other fees the amount whereof exceeds 400 MSLs, to timely file with an institution authorised by the State a tax return or to submit thereto a report approved in accordance with the specified procedure or another document concerning a person's income, profit or assets after this state institution reminds him in writing of the duty to submit them, shall be punished by a fine or by a custodial sentence for a term of up to four years.
2. A person who commits the act indicated in paragraph 1 of this Article, where the amount of taxes or other fees exceeds 900 MSLs, shall be punished by a custodial sentence for a term of two up to seven years.
3. A legal entity shall also be held liable for the acts provided for in this Article.

[76] Article 222 C.C.:
Fraudulent Management of Accounts
1. A person who fraudulently manages and (or) organizes the financial accounts required by legal acts or did not keep financial accounting documents and (or) financial accounting registers for the period prescribed by law, or conceals, destroys or damages financial accounting documents and (or) financial accounting registers, or did not manage and (or) did not organize the financial accounting required by legislation, if this resulted in large material damage to the State or a natural or legal person, or where this disables, fully or in part, determination of the person's activities, the amount or structure of the assets, equity or liabilities thereof, shall be punished by a fine or by arrest or by a custodial sentence for a term of up to four years.

(Fraudulent management of accounts) and 228[77] (Abuse of office) of the Criminal Code of Lithuania).

VAT fraud is classified as a **general offense (free-form)**, meaning no specific behaviors or actions are explicitly defined.

About the subjective element, Lithuania provides that **only intentional acts** are punishable.

In relation to compliance with the sanctions for committing fraud, described in Article 7 of the Directive, Lithuania complies, providing for a maximum penalty of **8 years imprisonment** in cases where the fraud committed against the EU's financial interests had caused damage exceeding EUR 100,000 (the threshold for "considerable damage"). In the variety of offenses that may come into play, the penalties vary significantly, ranging from 4 to 7 to 8 years.

Regarding **compliance with Article 6** of the PIF Directive, which addresses the liability of legal persons, Lithuania had already established compliant provisions before the adoption of the Directive (Article 20 of the C.C.[78]).

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2. The person who committed the act provided for in paragraph 1 of this article by causing very large material damage to the State or to a natural or legal person, shall be punished by a fine by a custodial sentence for a term of up to seven years.
3. A legal entity shall also be held liable for the acts provided for in this Article.

[77] Article 228 C.C.:
Abuse of Office
1. A civil servant or a person equivalent thereto who abuses his official position or exceeds his powers, where this incurs major damage to the State, the European Union, an international public organisation, a legal or natural person, shall be punished by a fine or by arrest or by a custodial sentence for a term of up to five years.
2. A person who commits the act provided for in paragraph 1 of this Article seeking material or another personal gain, in the absence of characteristics of bribery, shall be punished by a fine or a custodial sentence for a term of up to seven years.
3. A legal entity shall also be held liable for the acts provided for in this Article.

[78] Article 20 C.C.:
Criminal Liability of a Legal Entity
1. A legal entity shall be held liable solely for the criminal acts the commission whereof is subject to liability of a legal entity as provided for in the Special Part of this Code.
2. A legal entity shall be held liable for the criminal acts committed by a natural person solely where a criminal act was committed for the benefit or in the interests of the legal entity by a natural person acting independently or on behalf of the legal entity, provided that he, while occupying an executive position in the legal entity, was entitled:
1) to represent the legal entity, or
2) to take decisions on behalf of the legal entity, or
3) to control activities of the legal entity.
3. A legal entity may be held liable for criminal acts also where they have been committed by an employee or authorised representative of the legal entity on the instruction or with the permission of or as a result of insufficient supervision or control by the person indicated in paragraph 2 of this Article.
4. A legal entity may be held liable for the criminal acts committed under the conditions indicated in paragraph 2 or 3 of this Article by another legal entity controlled by or representing it, where they have been committed for the benefit of the abovementioned legal entity on the instruction or with the permission of or as a result of insufficient supervision or control by a person holding a management position therein or a person authorised by him.
5. The criminal liability of a legal entity shall not release from criminal liability a natural person who has committed, organised, instigated or assisted in commission of a criminal act. The criminal liability of a legal entity for a criminal act committed, organised, instigated or assisted in by a natural person for the benefit or in the interests of the legal entity shall not be released by the criminal liability of the natural person, nor by the fact that the natural person is released from criminal liability for this act or is not held liable for other reasons.

In Lithuania, sanctions applicable to legal persons (according to Article 9 of the PIF Directive) are fines, ranging from a minimum of 200 BAPPs (basic amount of punishments and penalties) to a maximum of 100,000 BAPPs. As per the Government's decision, effective since January 1, 2018, one BAPP is equivalent to EUR 50.

Lithuania has an **aggravating circumstance** for the VAT fraud committed by organised criminal groups, according to Article 8 of PIF Directive.

Luxembourg

In relation to compliance with Article 3 of the PIF Directive, which concerns the criminalisation of the commission of fraud against the EU's financial interests, Luxembourg is **compliant** having indeed **amended a pre-existing discipline**, specifically Art. 496-4[79] (budgetary fraud) and 501[80] (offenses against the integrity of financial instruments) Luxembourgian Criminal Code as amended by l. 12 March 2020.

VAT fraud in Luxembourg is classified as a **general offense (free-form**), meaning no specific behaviors or actions are explicitly defined

About the subjective element, Luxemburg provides that **only intentional acts** are punishable.

In relation to compliance with the sanctions for committing fraud, described in Article 7 of the Directive, Luxemburg complies, providing for a **maximum penalty of 4 years imprisonment** in cases where the fraud committed against the EU's financial interests had caused damage exceeding EUR 100,000 (the threshold for "considerable damage")[81].

With respect to compliance with Article 6 of the PIF Directive, concerning the liability of legal persons, **Luxembourg is compliant, as it already had compliant provisions before the directive.**

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6. The State, a municipality, a state and municipal institution and agency as well as an international public organisation shall not be held liable under this Code. The state and municipal enterprises, also the public establishments whose owner or stakeholder the State or a municipality, also the public limited liability companies and private limited liability companies whose shares, in whole or in part, belong by the right of ownership to the State or the municipality shall not be considered as state and municipal institutions and agencies and shall be held liable under this Code.

[79] Art. 496-4 C.C.:
Anyone who knowingly makes a false or incomplete declaration or fails to disclose information in violation of a specific obligation, with the intent to evade or reduce their legal contribution to the resources of an international institution's budget or the budgets managed by the European Union or on its behalf, shall be subject to the penalties provided under Article 496.
(As amended by the Law of July 29, 2022) The same penalties apply to anyone who knowingly misappropriates a legally obtained benefit and unlawfully reduces the resources of an international institution's budget or the budgets managed by the European Union or on its behalf.

[80] Art. 501 C.C.:
Shall be punished with imprisonment of eight days to one year and a fine of 251 euros to 10,000 euros, or with only one of these penalties, those who, even without fraudulent intent, have manufactured, sold, peddled, or distributed any objects, instruments, prints, or templates obtained by any process which, due to their external appearance, resemble currency, government bonds, postage or telegraph stamps, securities representing ownership rights, claims, or financial instruments (other than monetary signs in the form of banknotes), or in general, fiduciary instruments issued in the Grand Duchy or abroad, in a manner likely to facilitate the acceptance of said objects, instruments, prints, or templates in place of the imitated values.
(Amended by the law of January 13, 2002) The objects, instruments, prints, or templates, as well as the plates or matrices used for their production, shall also be confiscated, even if they are not the property of the convicted person.

[81] Article 80 §1 Luxembourg VAT legislation.

Managing directors, company managers (of entities established and/or VAT registered in Luxembourg), and both 'de jure' and 'de facto' managers responsible for daily operations may be held jointly and personally liable for breaches of VAT compliance obligations or the non-payment of VAT owed by the taxpayer under their management.

With regard to the penalties set out in **Article 9** of the PIF Directive, Luxembourg provides for:

- criminal fine: 500 EUR - 750,000 EUR and up to 6 times the evaded VAT in case of aggravated tax fraud;
- non-criminal fine: max €10,000 (Article 77 of the Luxembourg VAT law);
- temporary or permanent exclusion from public tenders.

Luxembourg has an **aggravating circumstance** for VAT fraud committed by organised criminal groups, according to Article 8 of the PIF Directive.

Malta

Malta **is now compliant with Article 3** of the PIF Directive**.** This compliance was achieved by **introducing a new legislation**, specifically Art. 2 of L. XVIII/2020 that amended Art. 190C[82] Maltese Criminal Code - Fraud affecting the Union's financial interests).

[82] 190C C.C.:
(1) Whosoever intentionally commits fraud affecting the European Union's financial interests shall be liable, on conviction, to imprisonment for a term of six (6) months to four (4) years.
(2) For the purposes of this Sub-title, the following shall be regarded as fraud affecting the European Union's financial interests:
(a) in respect of non-procurement-related expenditure, any act or omission relating to:
(i) the use or presentation of false, incorrect or incomplete statements or documents, which has as its effect the misappropriation or wrongful retention of funds or assets from the European Union budget or budgets managed by the European Union, or on its behalf.
(ii) non-disclosure of information in violation of a specific obligation, with the same effect; or
(iii) the misapplication of such funds or assets for purposes other than those for which they were originally granted.
(b) in respect of procurement-related.
expenditure, at least when committed in order to make an unlawful gain for the perpetrator or another by causing a loss to the European Union's financial interests, any act or omission relating to:
(i) the use or presentation of false, incorrect or incomplete statements or documents, which has as its effect the misappropriation or wrongful retention of funds or assets from the European Union budget or budgets managed by the European Union, or on its behalf.
(ii) non-disclosure of information in violation of a specific obligation, with the same effect; or
(iii) the misapplication of such funds or assets for purposes other than those for which they were originally granted, which damages the European Union's financial interests.
(c) in respect of revenue other than revenue arising from VAT own resources referred to in paragraph (d), any act or omission relating to:
(i) the use or presentation of false, incorrect or incomplete statements or documents, which has as its effect the illegal diminution of the resources of the European Union budget or budgets managed by the European Union, or on its behalf.
(ii) non-disclosure of information in violation of a specific obligation, with the same effect; or
(iii) misapplication of a legally obtained benefit, with the same effect.
(d) in respect of revenue arising from VAT own resources, any act or omission committed in cross-border fraudulent schemes in relation to:
(i) the use or presentation of false, incorrect or incomplete VAT-related statements or documents, which has as an effect the diminution of the resources of the European Union budget.
(ii) non-disclosure of VAT-related information in violation of a specific obligation, with the same effect; or
(iii) the presentation of correct VAT- related statements for the purposes of fraudulently disguising the non-payment or wrongful creation of rights to VAT refunds.

VAT fraud is classified as a **general offense** (**free-form**), meaning no specific behaviors or actions are explicitly defined or required.

About the subjective element, Malta **applies liability for both intent and negligence**. Malta is, indeed, one of the seven MSs that foresees both elements, together with Cyprus, Denmark, Germany, Finland, Sweden and The Netherlands.

In relation to compliance with the penalties for committing fraud, described in Article 7 of the Directive, Malta complies, providing for a **maximum penalty of 4 years imprisonment** in cases where the fraud committed against the EU's financial interests had caused damage exceeding EUR 100,000 (the threshold for "considerable damage").

With respect to compliance with Article 6 of the PIF Directive, concerning the liability of legal persons, **Malta is compliant thanks to the action of new legislations.**

Malta has an **aggravating circumstance** for the VAT fraud committed by organised criminal groups, according to Article 8 of the PIF Directive[83].

The Netherlands

In relation to compliance with Article 3 of the PIF Directive, **The Netherlands was already adequate and compliant.** Specifically, the relevant legal provisions are: Art. 225[84] (Document forgery), 227a[85] (False information to obtain benefits), 227b[86] (Failure to provide required information),

[83] Article 190I:
The punishment for the offences referred to in articles 190C, 190D, 190E and 190F shall be increased by one to two degrees where the offence was committed within the framework of a criminal organisation within the meaning of Council Framework Decision 2008/ 841/JHA of 24 October 2008 on the fight against organised crime.

[84] Art. 225 CC:
"1 Anyone who falsely draws up or falsifies a document intended to serve as evidence of any fact, with the intention of using it as genuine and unadulterated or having it used by others, shall be guilty of forgery and punished with imprisonment of not more than six years or a fifth category fine.
2 Anyone who deliberately uses the forged or forged document as if it were genuine and unforged, or deliberately delivers or has such a document available, while he knows or should reasonably suspect that this document is intended for such use, shall be punished with the same penalty.
3 If an offense described in the first or second paragraph is committed with the intention of preparing or facilitating a terrorist crime, the prison sentence imposed for the offense will be increased by one third."

[85] Art. 227a CC:
"Any person who, other than through forgery, deliberately does not provide truthful information to the person by whom or through whose intervention any benefit or compensation is provided, will, if the fact may serve to benefit himself or another, while he knows or must reasonably suspect that the information provided is important for determining his or another's right to such provision or compensation or for the amount or duration of such provision or compensation, punishable by a prison sentence of not more than four years or a fine of the fifth category."

[86] Art. 227b CC:
"Any person who, in violation of an obligation imposed on him by or pursuant to a legal provision, deliberately fails to provide the required information in a timely manner will, if the fact may serve to benefit himself or another, while he knows or should reasonably suspect that the information are important for the determination of his or another's right to a benefit or compensation or for the amount or duration of such a benefit or compensation, punishable by a prison term of not more than four years or a fifth-category fine."

323a[87] (Misuse of publicly provided resources), 420bis[88] (Money laundering), and 420ter[89] (Aggravated money laundering) of the Criminal Code, and Art. 68[90] (Violation of tax obligations),

[87] Art. 323a CC:
"Any person who intentionally and unlawfully uses resources provided for a specific purpose by or on behalf of the government or by or on behalf of an international law organization for purposes other than those for which they were provided, shall be punished with a prison term of not more than four years or a fine of fifth category."
[88] Art. 420bis CC:
"1 As guilty of money laundering, the penalty shall be a prison sentence of not more than six years or a fifth category fine for:
a. any person who conceals or conceals the true nature, origin, location, alienation or movement of an object, or conceals or conceals who is entitled to an object or who possesses it, while he knows that the object - directly or indirectly – originates from any crime.
b. anyone who acquires, possesses, transfers or converts an object or makes use of an object, while he knows that the object - directly or indirectly - originates from any crime.
2 Objects are understood to mean all property and all property rights."
[89] Art. 420ter CC:
"Anyone who makes a habit of committing money laundering shall be punished with a prison term of not more than eight years or a fine of the fifth category.
2 Anyone who is guilty of money laundering in the exercise of his profession or business will be punished with the same penalty."
[90] Art. 68 Algemene wet inzake rijksbelastingen:
"1 The person who is obliged under the tax law to:
a. providing information, data or instructions, and not providing it, incorrectly or incompletely.
b. making books, documents, other data carriers or their contents available for consultation and not making them available for this purpose.
c. making books, documents, other data carriers or their contents available for consultation, and making them available for this purpose in a false or falsified form.
d. keeping records in accordance with the requirements set by or pursuant to the tax law, and not keeping such records.
e. keeping books, documents or other data carriers and not keeping them.
f. providing cooperation as referred to in Article 52, paragraph 6, and not providing it.
g. issuing an invoice or invoice, and providing an incorrect or incomplete invoice or invoice.
shall be punished with imprisonment for a term not exceeding six months or a fine of the third category.
2 Anyone who does not comply with the obligation imposed on him by Article 47, third paragraph, shall be punished with a fine of the second category.
3. It is not punishable for anyone who fails to comply with the obligation referred to in Article 47a as a result of a legal or judicial prohibition applicable to the body not established in the Netherlands or the natural person not residing in the Netherlands to cooperate in the provision of the requested data or information or making available for consultation books, documents, other data carriers or their contents, or as a result of a refusal by a body not established in the Netherlands or a natural person not residing in the Netherlands to provide the requested data or to provide information or to make books, documents, other data carriers or their contents available for consultation.

69[91] (Tax evasion and fraudulent tax reporting) and 69a[92] (Tax evasion) and *Algemene wet Inzake Rijksbelastingen (*AWR - a Dutch law that establishes the general rules and procedures for the assessment and collection of national taxes, such as income tax, corporate tax, and value-added tax - VAT*).*

In the Netherlands, VAT fraud is classified as a **general offense (free-form**), as for the majority of MSs.

About the subjective element, the Netherlands **applies liability for both intent and negligence**.

In relation to compliance with the sanctions for committing fraud, described in Article 7 of the Directive, the Netherlands complies, providing for a **maximum penalty of 4 years imprisonment** in cases where the fraud committed against the EU's financial interests had caused damage exceeding the threshold for "considerable damage". Depending on the conduct, this sanction can be up to 6 years.

With respect to compliance with Article 6 of the PIF Directive, concerning the liability of legal persons, **already had compliant provisions before the Directive** (Article 51 C.C.[93]).

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[91] Art. 69 Algemene wet inzake rijksbelastingen:
"1 A person who deliberately fails to file a tax return provided for in the tax law, fails to file it within the prescribed period, or commits one of the facts described in Article 68, first paragraph, parts a, b, d, e, f or g, will be if the fact is that under-tax is levied, punished with a prison sentence of not more than four years or a fine of the fourth category or, if this amount is higher, not more than once the amount of the under-levy tax.
2 Anyone who deliberately submits a tax return provided for in the tax law incorrectly or incompletely, or commits the offense described in Article 68, first paragraph, part c, shall, if the fact results in too little tax being levied, be punished with a prison sentence of up to a maximum of six years or a fine of the fifth category or, if this amount is higher, a maximum of once the amount of the under-levied tax, on the understanding that insofar as the inaccuracy or incompleteness of the tax return relates to taxable income as referred to in Article 5.1 of the Income Tax Act 2001, the fine amounts to a maximum of three times the amount of the under-levied tax.
3 The right to prosecute on the basis of this article shall lapse if the guilty party still files a correct and complete report, or provides correct and complete information, data or indications before he knows or should reasonably suspect that one or more of the offenses referred to in Article 80 , first paragraph, officials referred to, the inaccuracy or incompleteness is known or will become known. Notwithstanding the first sentence, the right to prosecute on the basis of this article does not lapse to the extent that the guilty party still files a correct and complete report, or provides correct and complete information, data or indications that relate to income from a substantial interest as referred to in Article 4.12 of the Income Tax Act 2001 or on income from savings and investments as referred to in Article 5.1 of that Act.
4 If the offense for which the suspect can be prosecuted falls under one of the provisions of the first or second paragraph, as well as under that of Article 225, second paragraph of the Criminal Code, criminal prosecution on the basis of the aforementioned Article 225, second paragraph, excluded.
5 Article 68, third paragraph, applies mutatis mutandis.
6 If the guilty person commits one of the criminal offenses described in the first and second paragraphs in his profession, he may be disqualified from practicing that profession."
[92] Art. 69a Algemene wet inzake rijksbelastingen:
"1 Anyone who deliberately fails to pay the tax that must be paid or remitted on the tax return, does not pay it in part, or does not pay it within the period set in the tax law, shall be punished with a prison sentence of not more than six years or a fine of the fifth category or, if this amount is higher, at most once the amount of the underpaid tax.
2 Article 69, sixth paragraph, applies mutatis mutandis.
3 It is not punishable for anyone who has requested the recipient in a timely manner to grant a deferral of payment or who has informed the recipient in writing immediately after it has become apparent that the body is unable to pay.
[93] Art. 51 CC:
"1 Criminal offenses can be committed by natural persons and legal entities.

About sanctions as indicated in **Article 9 of the PIF Directive**, The Netherlands foresees:

- criminal fine: extent may be up to 10% of the turnover in the previous year for sixth-category offenses if the maximum fine is inadequate.
- temporary or permanent disqualification from the practice of commercial activities.

The Netherlands has an **aggravating circumstance** for the VAT fraud committed by organised criminal groups, according to Article 8 of the PIF Directive.

Poland

In relation to compliance with **Article 3** of the PIF Directive, which concerns the criminalisation of the commission of fraud against the EU's financial interests, **Poland was already adequate,** specifically with Art. 270[94] (Forgery) and following[95] to Art. 277d of the Penal Code.

VAT fraud is classified as a **general offense (free-form**), since Polish law – as in the majority of the other MSs - does not prescribe a specific method or means by which the crime must be committed. Instead, the focus is on the result or legal violation, regardless of how it was achieved.

About the subjective element, Poland provides that **only intentional acts** are punishable.

In relation to compliance with the sanctions for committing fraud, described in Article 7 of the Directive, Poland complies, providing for a **maximum penalty of 25 years imprisonment** in cases where the fraud committed against the EU's financial interests had caused damage exceeding EUR 100,000 (the threshold for "considerable damage").

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2 If a criminal offense is committed by a legal entity, criminal proceedings may be initiated and the penalties and measures provided for by law, if appropriate, may be imposed:
1°. against that legal entity, then
2°. against those who ordered the act, as well as against those who actually led the prohibited conduct, or
3°. against the persons mentioned under 1° and 2° together.
3 For the purposes of the previous paragraphs, the following are equated with the legal entity: the company without legal personality, the partnership, the shipping company and the target capital.

[94] Art. 270 C.C.:
Forgery
Chapter XXXIV. Offences against the Credibility of Documents.
§ 1. Anyone who forges, counterfeits or alters a document with the intention of using it as authentic, or who uses such a document as authentic, is liable to a fine, the restriction of liberty or imprisonment for between three months to five years.
§ 2. Anyone who fills in a form with someone else's signature, against the signatory's will and to his or her detriment, or who uses such a document, is liable to the same penalty.
§ 2a. If the act is of less significance, the offender is liable to a fine, the restriction of liberty or imprisonment for up to two years.
§ 3. Anyone who prepares for the offence specified in § 1 is liable to a fine, the restriction of liberty or imprisonment for up to two years.

[95] Art. 277a. C.C.:
Forgery of invoices with an amount due exceeding PLN 10 million
Whoever commits the offence specified in Article 270a § 1 or Article 271a § 1 against an invoice or invoices containing a total amount of receivables the value or total value of which is greater than ten times the amount determining great value property,
shall be punishable by imprisonment for a term of between 5 and 25 years.
In the event of lesser gravity, the perpetrator of the act specified in § 1 shall
shall be subject to the penalty of deprivation of liberty for up to 5 years.

Concerning compliance with Article 6 of the PIF Directive, related to the **liability of legal persons**, Poland already **had compliant provisions before the Directive**, specifically Art. 3 l. n. 659/2023 about the liability of legal persons and Article 116 of the Tax Ordinance[96].

About sanctions as indicated in **Article 9 of the PIF Directive**, Poland foresees non-criminal fines [see Art. 112b-112c of the Act of 11 March 2004 on the tax on goods and services].

Finally, also in Poland, there is the possibility to aggravate the penalty when the offender has acted in an **organised criminal group**.

Portugal

With respect to **compliance with Article 3 of the PIF Directive, Portugal is compliant.** This compliance is the result of a process: in December 2021, the European Commission initiated an infringement procedure against Portugal.

Portuguese legislation protects the EU's financial interests through two different legislations. The offense to VAT revenue through fraudulent action consisting in loss of VAT revenue is protected by Law 15/2021, which contains the offense of tax fraud (art. 103 e 104). Other non-tax revenues are protected by Decree-Law 28/84, through the crime of Fraud in obtaining a subsidy (art. 36),

[96] Article 116 of the Tax Ordinance
Tax liability of members of management boards of limited liability companies
The members of its management board shall be jointly and severally liable for the tax arrears of a limited liability company, a limited liability company in organisation, a simple joint-stock company, a simple joint-stock company in organisation, a joint-stock company or a joint-stock company in organisation with all their assets, if enforcement against the assets of the company has proved wholly or partly ineffective, and the member of the management board:
1) failed to prove that:
a) a bankruptcy petition was filed in due time or restructuring proceedings were opened at that time within the meaning of the Act of 15 May 2015. - Restructuring Law (Journal of Laws of 2022, item 2309 and of 2023, items 1723 and 1860) or an arrangement has been approved in the proceedings for the approval of an arrangement referred to in the Act of 15 May 2015. - Restructuring Law, or
b) the failure to file for bankruptcy was without his fault.
2) does not indicate the company's property from which enforcement will enable the company's tax arrears to be satisfied in a substantial part.
If the obligation to file a motion to declare bankruptcy arose and existed only at the time when enforcement by compulsory administration was conducted or by sale of the enterprise pursuant to the provisions of the Code of Civil Procedure, the failure to file a motion to declare bankruptcy shall be deemed to have occurred through no fault of the management board member referred to in § 1.
Liability of management board members includes tax arrears for obligations whose due date expired while they were acting as management board members, as well as arrears mentioned in Article 52 and Article 52a which arose while they were acting as management board members.
Persons performing the duties of a member of the management board at the time of the company's liquidation shall be liable for tax obligations arising under separate provisions after the company's liquidation, for tax arrears in respect of obligations whose due date expired after the company's liquidation, and for arrears listed in Article 52 and Article 52a arising after the company's liquidation. The provision of Article 115 § 4 shall apply accordingly.
Where a limited liability company in organisation, a simple joint-stock company in organisation or a joint-stock company in organisation does not have a management board, the company's proxy shall be liable for the company's tax arrears, or the partners shall be liable if the proxy has not been appointed. The provisions of § 1 and 2 shall apply mutatis mutandis.
The provisions of § 1-3 shall also apply to the former member of the management board and the former proxy or shareholder of the company in organisation.
In the case of a simple joint stock company in organisation in which a board of directors has been appointed, the provisions of § 1-4 shall apply mutatis mutandis to the board of directors and the directors.

Misappropriation of a subsidy (art. 37), and Misuse of EU revenues (art. 37-A[97]). This latest addition, introduced in 2024 in that decree, sought to complete the transposition of the PIF Directive, especially regarding the use of benefits from European funds that did not fit into tax fraud (as they are not related to VAT) nor into fraud and diversion of obtaining subsidies (as they did not have an economic development purpose).

About the **objective element** of the crime, only some conducts are foreseen for revenues in general:

- the use or presentation of false, incorrect, or incomplete statements, or documents.
- misapplication of a legally obtained benefit.

and for VAT revenue, specifically:

- the use or presentation of false, incorrect or incomplete statements, or documents.
- non-disclosure of VAT-related information in violation of a specific obligation.
- the presentation of correct VAT-related statements to fraudulently disguise the non-payment or wrongful creation of rights to VAT refunds.

According to the Portuguese legislations, in order to qualify as a criminal offense, VAT fraud has to provide a tax advantage of 15,000 euros or more. Below this limit, it is an administrative offense.

With regard to the subjective element, Poland provides that **only intentional acts are punishable**.

About compliance with the sanctions for committing fraud, described in **Article 7 of the Directive**, Poland complies since their provision amounts to a **maximum of 8 years imprisonment** in cases where the fraud committed against the EU's financial interests had caused damage exceeding EUR 200,000 (even if for the EU, the threshold for “considerable damage” is 100,000).

With respect to compliance with **Article 6 of the PIF Directive**, concerning the liability of legal persons, Portugal was already compliant before the Directive, specifically with Article 3 of the DL 28/84 (Revenue other than VAT) and Art. 7 of the L 15/2001 (VAT Fraud) that foreseen criminal liability of the legal person.

About sanctions as indicated in Article 9 of the PIF Directive, Portugal foresees:

- exclusion from entitlement to public benefits or aid.
- temporary or permanent exclusion from public tender procedures.
- temporary or permanent disqualification from the practice of commercial activities.
- temporary or permanent closure of establishments that have been used for committing the criminal offense.

As in the majority of MSs, also in Portugal when the offender has acted in an **organised criminal group**, the court may increase the sentence.

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[97] Art. 37-A C.C.:
Misuse of European Union revenue
1 - Anyone who uses a legally obtained benefit resulting from European Union revenue other than from value added tax own resources for a purpose other than that for which it was intended, and which involves a loss or advantage in an amount exceeding 100,000 (euro), shall be punished with imprisonment up to 5 years.
2 - When the facts set out in the previous paragraph involve a loss or advantage of an amount equal to or greater than 10,000 (euros) and less than or equal to 100,000 (euros), the perpetrator shall be punished with imprisonment up to 2 years or a fine up to 240 days.
3 - The same penalties shall apply to anyone who commits the conduct provided for in the preceding paragraphs by omission contrary to the duties of office.

Romania

Romania achieved compliance with Article 3 of the PIF Directive by an amendment of the pre-existing discipline.

In December 2021, indeed, the European Commission initiated an infringement procedure for the delay in the transposition of the Directive.

The relevant legal references in this context are: Articles 9[98] and 9(1) Law 241/2005[99] (Fraud); Art 18(3) Law 78/2000[100].

VAT fraud is classified as a **general offense** (**free-form**), meaning no specific behaviors or actions are explicitly defined.

With regard to the subjective element, Romania provides that **only intentional acts** are punishable. However, the national Expert clarified that **it is possible to punish an unintentional breach base on negligence if damage has been caused to European funds**, in conjunction with other provisions such as those on combating corruption and money laundering. Indeed, it is relevant that in Art.

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[98] Art. 9 Law 241/2005:
Constitutes tax evasion offences and is punishable by a penalty of two (2) to eight (8) years of imprisonment and the prohibition of certain rights or fines the following acts committed to evade the fulfillment of tax obligations:
a) the concealment of the taxable or the taxable property or the source.
b) the omission, in whole or in part, of the evidence, in the accounting documents or other legal documents, of the commercial operations performed or of the realized revenues.
c) registration, in accounting documents or other legal documents, of the expenses that are not based on real operations or registration of other fictitious operations.
d) the alteration, destruction or concealment of accounting documents, memoranda of fiscal electronic cash registers or other means of storing data.
e) the execution of double accounts using documents or other means of storing data.
f) the avoidance of financial, tax or customs audits by non-disclosure, fictitious disclosure or inaccurate disclosure as to the principal or secondary premises of the verified persons.
g) the substitution, degradation or alienation by the debtor or by third parties of the seized goods in accordance with the provisions of the Tax procedure code and the Criminal procedure code.
(2) If the facts referred to in paragraph (1) result in a prejudice of more than EUR 100 000, in the equivalent of the national currency, the minimum penalty limit provided by law is increased by 5 years.
(3) If by the facts referred to in paragraph (1) result in a prejudice of more than EUR 500 000, in the equivalent of the national currency, the minimum penalty limit provided by law and its maximum limit is increased by 7 years.

[99] Art. 9(1) Law 241/2005 as introduced by Law 125/2023:
(1) It is a criminal offence and is punishable by imprisonment from 7 to 15 years and the prohibition of the exercise of certain rights any action or inaction committed under fraudulent schemes of a cross-border nature having the effect reducing by at least 10,000,000 euros, in the equivalent of the national currency, the resources of the European Union budget, by:
a) the use or presentation of false, incorrect or incomplete VAT-related statements or documents,
b) non-disclosure of VAT-related information in violation of a specific legal obligation,
c) the presentation of correct VAT-related statements for the purposes of fraudulently disguising the non-payment or wrongful creation of rights to VAT refunds.
(2) The attempt to commit the criminal offense referred to in paragraph (1) shall be punished.

[100] Art 183 Law 78/2000:
(1) The use or presentation of false, incorrect or incomplete statements or documents, which has as its effect the illegal diminution of the resources of the Union budget or budgets managed by the Union, or on its behalf shall be punished with a penalty of two to seven years of imprisonment and prohibition of the exercise of certain rights.
(2) With the penalty provided in paragraph (1) shall be sanctioned the omission to provide, knowingly, the data required according to the legal provisions, whether the act results in the illegal diminution of the resources of the European Union budget or of the budgets administered or on its behalf.

185 Law 78/2000 for the prevention, discovery, and sanctioning of corruption deeds, with subsequent amendments and completions, also unintentional acts are punishable but only under certain conditions: "*Unintentional breach by the director, administrator or person responsible for deciding or controlling a legal person of a duty of service, by failing to perform it or by performing it improperly if the act resulted in the commission by a person who is subordinated to him and who acted on behalf of that legal person of one of the offenses referred to in art. 181-183 or committing a crime of corruption or money laundering in connection with the European Union funds, is punishable by a penalty of six months to three years imprisonment or a fine*."

In relation to compliance with the sanctions for committing fraud described in Article 7 of the Directive, Romania complies since its provision amounts to a **maximum of 15 years imprisonment**, if the fraud committed against the EU's financial interests had caused damage exceeding EUR 100,000.

Art. 9 Law 241/2005 foresees three different penalties:

1. A "standard" penalty, for criminal offences with damages of less than EUR 100,000. This penalty is from two to eight years of imprisonment.
2. A first aggravating circumstance is if the damages are more than EUR 100,000 but less than EUR 500, 0000.
   In this case, the penalty is from seven to thirteen years of imprisonment.
3. A second aggravating circumstance if the damages are more than EUR 500,000.
   The penalty in this second option is from seven to thirteen years of imprisonment.

For the criminal offenses mentioned in Art. 91 Law 241/2005 there is more penalties, compliant with the PIF Directive (up to **15 years of imprisonment**).

About compliance with Article 6 of the PIF Directive, concerning the **liability of legal persons**, Romania already had compliant provisions before the PIF Directive [see Art. 135 Romanian criminal code[101]].

About sanctions as indicated in **Article 9 of the PIF Directive**, Romania foresees:

- criminal sanctions calculated based on the fine-days system, with specific rules depending on the severity of the offense and the legal entity's financial characteristics. Additionally, fines may be increased if the offense aimed to gain financial benefit.
- non-criminal fine (main penalty in the form of fines and ancillary penalties);
- temporary or permanent exclusion from public tender procedures.
- temporary or permanent disqualification from the practice of commercial activities.
- placing under judicial supervision.
- judicial winding-up.
- temporary or permanent closure of establishments that have been used for committing the criminal offense.

[101] Art. 135 Conditions of criminal liability of the legal person
(1) The legal entity, except for the state and public authorities, is criminally liable for the offences committed in achieving the object of activity or in the interest or on behalf of the legal entity.
(2) Public institutions shall not be criminally liable for offences committed in the exercise of an activity that cannot be the subject of the private domain.
(3) The criminal liability of the legal entity does not exclude the criminal liability of the natural person who contributed to the commission of the same act.

In Romania, if these behaviors are committed by organized criminal groups, an **aggravating circumstance** is foreseen.

Slovakia

Slovakia is still **not fully compliant with Article 3 of the PIF Directive**. While some amendments have been made to existing legislation, these changes still do not meet all the requirements outlined in the Directive.

In February 2022, indeed, the European Commission initiated an infringement procedure against Slovakia.

Slovakia is one of the 4 MSs that are not compliant, together with Croatia, Denmark, and France.

VAT fraud against EU is foreseen in Article 261 Slovakian Criminal Law[102]. It was first amended by L. 214/2019. Following amendments took place with Law 420/2019, 474/2019, 288/2020, 312/2020, 236/2021, Decision of the Constitutional Court of the SR 420/2023, 40/2024 (suspended effect), 47/2024.

VAT fraud is classified as a **general offense (free-form)**, meaning that no specific behaviors or actions are explicitly defined.

Concerning the subjective element, Slovakia provides that **only intentional acts** are punishable.

About sanctions described in Art. 7 of the Directive, Slovakia is not compliant and still inflicts a penalty of **less than 4 years in its maximum** in such cases. However, the penalty increases if the damage is significant (from 1 to 5 years) or substantial (from 3 to 8 years). At the same time, the

[102] § 261:
Damaging the Financial Interests of the European Union
(1) Anyone who uses or submits a falsified, incorrect, or incomplete report or document, or fails to provide required information, thereby enabling the unlawful retention of financial resources or other assets originating from the budget of the European Union, from a budget managed by the European Union, or on behalf of the European Union, or who uses such funds or assets for purposes other than those intended, shall be punished by imprisonment for a period of six months to three years.
(2) The same punishment as in paragraph 1 shall apply to anyone who uses financial resources or other assets originating from the budget of the European Union, from a budget managed by the European Union, or on behalf of the European Union for purposes other than those intended.
(3) A perpetrator shall be punished by imprisonment for a period of one to four years if, as an employee, member, representative, or any other person authorized to act on behalf of the entity providing financial resources or other assets mentioned in paragraph 1, they enable the acquisition of such resources or assets by someone they know does not meet the required conditions for their provision, or if they enable their unlawful retention or use for purposes other than those intended.
(4) A perpetrator shall be punished by imprisonment for a period of one to five years if they commit an act referred to in paragraph 1, 2, or 3
a) and cause significant damage,
b) out of a specific motive, or
c) in a more serious manner.
(5) A perpetrator shall be punished by imprisonment for a period of three to eight years if they commit an act referred to in paragraph 1, 2, or 3 and cause substantial damage.
(6) A perpetrator shall be punished by imprisonment for a period of seven to twelve years if they commit an act referred to in paragraph 1, 2, or 3:
a) and cause damage of a large scale, or
b) as a member of a dangerous organization.

penalty is increased to 7 to 12 years if the damage is on a large scale or if the crime is committed by a dangerous organization.

Regarding compliance with Article 6 of the PIF Directive, which addresses the **liability of legal persons**, Slovakia already had provisions in place that were compliant with the Directive, before its adoption [see Art. 4, Law n. 91/2016].

About sanctions indicated in Article 9 of the PIF Directive, Slovakia foresees:

- exclusion from entitlement to public benefits or aid;
- temporary or permanent exclusion from public tender procedures;
- temporary or permanent disqualification from the practice of commercial activities.

In Slovakia, if these behaviors are committed by organized criminal groups, an **aggravating circumstance** is foreseen, as already underlined.

Slovenia

Even though Slovenia did not respond to the questionnaire prepared for the EU Cyber VAT fraud project, it has nonetheless been possible to assess its **compliance** with the PIF Directive and **Article 3**. Specifically, the European Commission initiated an infringement procedure against Slovenia in February 2022 for its non-compliance with the Directive.

The relevant legal references are Article 254[103] (Tax evasion) and Article 217[104] C.C. (Fraud). It is also important to consider the Value Added Tax Act (ZDDV-1).

[103] Article 254 C.C.:
Tax Evasion
(1) Whoever, with the intention either of evading, in whole or in part, the payment of income tax or any other prescribed tax or levy by himself or of enabling another person to do so, provides false information about income, expenses, property or other circumstances relevant to taxation, or otherwise defrauds the tax authorities, whereby the amount of tax evaded represents a major property benefit, shall be sentenced to imprisonment for not more than three years.
(2) Whoever, with the intention under the previous paragraph, fails to report income or other circumstances -whose report is mandatory, and which have an influence upon the assessment of tax obligations, whereby such obligations which he intended to evade represent a major property benefit, shall be punished to the same extent.
(3) If a major property benefit has been gained though the offence under the first or second paragraphs of the present article and the perpetrator intended to gain such property benefit, he shall be sentenced to imprisonment for not more than five years.

[104] Article 217 C.C.:
(1) Whoever, with the intention of acquiring an unlawful property benefit for himself or a third person, by false representation or the suppression of facts leads another person into error or keeps him in error, thereby inducing him to perform an act or to omit to perform an act to the detriment of his or another's property shall be sentenced to imprisonment for not more than three years.
(2) If a large loss of property has been incurred by the committing of the offence under the preceding paragraph, the perpetrator shall be sentenced to imprisonment for less than one and not more than eight years.
(3) If a minor loss of property has been incurred by the committing of the offence under the first paragraph of the present article and if the perpetrator's intention was to acquire a minor property benefit, he shall be punished by a fine or sentenced to imprisonment for not more than one year.
(4) Whoever, with the intention of causing damage to another person by false representation or the suppression of facts, leads a person into error or keeps him in error, thereby inducing him to perform an act or to omit to perform an act to the detriment of his or another's property shall be punished by a fine or sentenced to imprisonment for not more than one year.

For the application of the criminal law on tax evasion, in Slovenia is required **intention**. Negligence is the subjective element of tax offences.

The foreseen sanctions are monetary (in daily amounts, depending on the weight of the offense) and **imprisonment from 1 to 8 years**. So, Slovenia complies with Article 7 of the PIF Directive.

In Slovenia it is possible to hold **legal entities responsible** for these crimes as well, so Slovenia is compliant also with Article 6 of the Directive.

In Slovenia, if these crimes are committed within the framework of **organized criminal groups**, the penalty is **more severe.**

Spain

With respect to **compliance with Article 3 of the PIF Directive, Spain is compliant** and achieved its compliance with the **amendment of pre-existing discipline.**

This process was completed after the deadline for the transposition of the Directive had expired, and in fact, in February 2022, the European Commission initiated an infringement procedure against Spain.

(5) The prosecution for the offences under the third and fourth paragraphs of the present article shall be initiated upon a complaint.

The relevant Spanish legislation on this matter is: Article 305[105], 306[106] of the Spanish Criminal Code (contains the criminal conduct related to VAT in Art. 3 of the PIF Directive), 305 bis[107]

[105] Article 305 of the Spanish Criminal Code:
1. Anyone who, by action or omission, defrauds the state, regional, foral or local Public Treasury, evading the payment of taxes, amounts withheld or which should have been withheld or payments on account, unduly obtaining refunds or enjoying tax benefits in the same way, provided that the amount of the defrauded amount, the unpaid amount of the withholdings or payments on account or of the refunds or tax benefits unduly obtained or enjoyed exceeds one hundred and twenty thousand euros, shall be punished with a prison sentence of one to five years and a fine of one to six times the aforementioned amount, unless they have regularised their tax situation under the terms of paragraph 4 of this Article.
The mere submission of declarations or self-assessments does not exclude fraud, where it is established by other facts.
In addition to the aforementioned penalties, the person responsible shall lose the possibility of obtaining public subsidies or aid and the right to enjoy tax or Social Security benefits or incentives for a period of three to six years.
2. For the purposes of determining the amount mentioned in the previous section:
a) In the case of taxes, withholdings, payments on account or refunds, periodic or periodically declared, the amount defrauded in each tax period or declaration period shall be taken as the amount defrauded, and if these are less than twelve months, the amount defrauded shall refer to the calendar year. Notwithstanding the above, in cases where the fraud is carried out within a criminal organisation or group, or by persons or entities acting under the guise of a real economic activity without actually carrying it out, the offence shall be prosecutable from the moment the amount set out in paragraph 1 is reached.
b) In all other cases, the amount shall be understood to refer to each of the different concepts for which a taxable event is liable for assessment.
3. The same penalties shall be imposed on anyone who commits the conduct described in paragraph 1 and on anyone who evades the payment of any amount due or takes undue advantage of a legally obtained benefit, when the acts are committed against the Treasury of the European Union, provided that the amount defrauded exceeds one hundred thousand euros within a period of one calendar year. Notwithstanding the foregoing, in cases where the fraud is carried out within a criminal organisation or group, or by persons or entities acting under the guise of a real economic activity without actually carrying it out, the offence shall be prosecutable from the moment the amount set out in this section is reached.
If the amount defrauded does not exceed one hundred thousand euros but exceeds ten thousand euros, a prison sentence of three months to one year or a fine of three times the aforementioned amount and the loss of the possibility of obtaining public subsidies or aid and the right to enjoy tax or Social Security benefits or incentives for a period of six months to two years shall be imposed.
4. The tax situation shall be deemed to be regularised when the taxpayer has fully acknowledged and paid the tax debt before the Tax Administration has been notified of the commencement of verification or investigation proceedings aimed at determining the tax debts that are the subject of the regularisation or, in the event that such proceedings have not taken place, before the Public Prosecutor's Office, the State Attorney or the procedural representative of the regional, provincial or local administration in question files a complaint or accusation against him or her, or before the Public Prosecutor's Office or the Examining Magistrate carries out actions that allow him or her to have formal knowledge of the initiation of proceedings.
Likewise, the effects of the regularisation provided for in the previous paragraph shall be applicable when tax debts are paid once the Administration's right to determine them in administrative proceedings has lapsed.
The regularisation by the taxpayer of his tax situation shall prevent him from being prosecuted for possible accounting irregularities or other instrumental falsehoods which, exclusively in relation to the tax debt subject to regularisation, he may have committed prior to the regularisation of his tax situation.
5. When the Tax Administration sees indications that an offence against the Public Treasury has been committed, it may settle separately, on the one hand, those items and amounts that are not linked to the possible offence against the Public Treasury, and on the other, those that are linked to the possible offence against the Public Treasury.
The settlement indicated in the first place in the previous paragraph will follow the ordinary procedure and will be subject to the system of appeals inherent to all tax settlements. And the settlement that may arise from those concepts and amounts that are linked to the possible offence against the Public Treasury shall follow the procedure established for this purpose in the tax regulations, without prejudice to the final adjustment to what is decided in the criminal proceedings.
The existence of criminal proceedings for an offence against the Treasury will not paralyse the action to collect the tax debt. The Tax Administration may initiate collection proceedings, unless the Judge, either ex

(Aggravating circumstances); Ley Orgánica 1/2019 amends section 3 of art. 305 of the Spanish Criminal Code. Art. 306 of the Spanish Criminal Code is amended by Ley Orgánica 9/2021.

VAT fraud is classified as a **general offense (free-form)**, meaning that no specific behaviors or actions are explicitly defined. All possible conducts of VAT fraud are covered.

The Spanish Criminal Code does not provide for specific forms of tax fraud, it only provides for tax fraud, which may consist of evading payments, enjoying undue benefits, or using the funds obtained for purposes other than lawful. However, the specific form is not provided (use of false or incorrect documents; omission of information; declaration of incorrect data, etc.).

About the subjective element, Spain provides that **only intentional acts** are punishable.

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officio or at the request of a party, has ordered the suspension of the enforcement proceedings, subject to the provision of a guarantee. If it is not possible to provide a guarantee in whole or in part, the Judge may exceptionally order the suspension with total or partial waiver of guarantees if he considers that the enforcement could cause irreparable damage or damage that would be very difficult to repair.
6. The Judges and Courts may impose on the taxpayer or the perpetrator of the offence the penalty that is one or two degrees lower, provided that, within two months of the judicial summons as a defendant, he/she pays the tax debt and judicially acknowledges the facts. The above shall also apply to participants in the offence other than the taxpayer or the perpetrator of the offence, when they actively collaborate in obtaining decisive evidence for the identification or capture of other perpetrators, for the complete clarification of the criminal acts or for the ascertainment of the assets of the taxpayer or of other perpetrators of the offence.
7. In proceedings for the offence referred to in this Article, for the enforcement of the fine and civil liability, which shall include the amount of the tax debt that the Tax Administration has not settled due to the statute of limitations or any other legal cause under the terms provided for in Law 58/2003, General Taxation Act, of 17 December, including interest on late payment, the Judges and Courts shall seek the assistance of the Tax Administration services, which shall demand them through the administrative procedure of enforcement under the terms established in the aforementioned Act.

[106] Art. 306 of the Spanish Criminal Code:
Any person who by act or omission defrauds the general budgets of the European Union or other budgets administered by it of more than fifty thousand euros, by evading, except in the cases referred to in Article 305(3), the payment of sums due or, except in the cases referred to in Article 308, by putting the funds obtained to a use other than that for which they were intended or by improperly obtaining funds by falsifying the conditions required for their grant or concealing the fact that they would have prevented their being granted, shall be punished by imprisonment for a term of one year, the funds obtained for a use other than that for which they were intended or unduly obtaining funds by falsifying the conditions required for their concession or concealing those that would have prevented it, shall be punished with a prison sentence of one to five years and a fine of one to six times the aforementioned amount and the loss of the possibility of obtaining public subsidies or aid and the right to enjoy tax or Social Security benefits or incentives for a period of three to six years.
If the amount defrauded or misapplied does not exceed fifty thousand euros, but exceeds four thousand euros, a prison sentence of three months to one year or a fine of three times that amount and the loss of the possibility of obtaining public subsidies or aid and the right to enjoy tax or Social Security benefits or incentives for a period of six months to two years shall be imposed.

[107] Art. 305 bis of the Spanish Criminal Code:
1. The offence against the Public Treasury shall be punishable with a prison sentence of two to six years and a fine of twice to six times the amount defrauded when the fraud is committed in any of the following circumstances:
a) The amount of the amount of the defrauded quota exceeds six hundred thousand euros.
b) That the fraud has been committed within an organisation or criminal group.
c) That the use of natural or legal persons or interposed unincorporated entities, businesses or fiduciary instruments or tax havens or territories of non-taxation hides or hinders the determination of the identity of the taxpayer or of the person responsible for the offence, the determination of the amount defrauded or of the assets of the taxpayer or of the person responsible for the offence.
2. All the other provisions contained in Article 305 shall apply to the cases described in this Article.
In these cases, in addition to the penalties indicated, the person responsible shall be subject to the loss of the possibility of obtaining public subsidies or aid and the right to enjoy tax or Social Security benefits or incentives for a period of four to eight years.

In relation to compliance with the penalties for committing fraud, described in Article 7 of the Directive, Spain complies, providing for a **maximum penalty of 5 years imprisonment** in cases where the fraud committed against the EU's financial interests had caused damage exceeding EUR 100,000 (the threshold for "considerable damage").

To comply with **Article 6 of the PIF Directive**, Spain **amended its pre-existing legislation despite it already being adequate** [see Article 310 bis C.C.[108] - specific provision for criminal liability of legal persons for tax fraud offenses and Article 31 bis[109] - general provision for criminal liability of legal persons].

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[108] Art. 310 bis Spanish Criminal Code:
When, in accordance with the provisions of Article 31 bis, a legal person is responsible for the offences set out in this Title, the following penalties shall be imposed on that person:
a) a fine of as much as twice the amount defrauded or wrongfully obtained, if the offence committed by the natural person is punishable by a term of imprisonment of more than two years.
b) a fine of two to four times the amount defrauded or wrongly obtained, if the offence committed by the natural person is punishable by a term of imprisonment of more than five years
c) A fine of six months to one year, in the cases referred to in Article 310.
In addition to the aforementioned, the legal person responsible shall be subject to the loss of the possibility of obtaining public subsidies or aid and the right to enjoy tax or Social Security benefits or incentives for a period of three to six years. The prohibition to contract with the Public Administrations may be imposed.
In accordance with the rules laid down in Article 66 bis, the judges and courts may also impose the penalties set out in Article 33(7)(b), (c), (d), (e) and (g).

[109] Art. 31 bis Spanish Criminal Code:
1. In the cases provided for in this Code, legal persons shall be criminally liable:
a) For offences committed in the name of or on behalf of them, and for their direct or indirect benefit, by their legal representatives or by those who, acting individually or as members of an organ of the legal person, are authorised to take decisions on behalf of the legal person or hold powers of organisation and control within the legal person.
b) Offences committed, in the exercise of corporate activities and on behalf of and for the direct or indirect benefit of the same, by those who, being subject to the authority of the natural persons mentioned in the previous paragraph, have been able to carry out the acts because they have seriously failed to comply with their duties of supervision, monitoring and control of their activity in view of the specific circumstances of the case.
2. If the offence is committed by the persons referred to in point (a) of the preceding paragraph, the legal person shall be exempt from liability if the following conditions are met:
1º. the management body has adopted and effectively implemented, prior to the commission of the offence, organisational and management models that include the surveillance and control measures suitable for preventing offences of the same nature or for significantly reducing the risk of their commission.
2º. the supervision of the operation of and compliance with the prevention model in place has been entrusted to an organ of the legal person with autonomous powers of initiative and control or which is legally entrusted with the function of supervising the effectiveness of the legal person's internal controls.
3º. the individual perpetrators have committed the offence by fraudulently circumventing the organisational and preventive models, and
4º. there has been no omission or insufficient exercise by the body referred to in condition 2 of its supervisory, monitoring and control functions.
In cases in which the above circumstances can only be partially accredited, this circumstance shall be assessed for the purposes of mitigating the sentence.
3. In the case of small legal persons, the supervisory functions referred to in Condition 2.2 may be assumed directly by the management body. For these purposes, small legal persons are those which, according to the applicable legislation, are authorised to submit abridged profit and loss accounts.
4. If the offence was committed by the persons referred to in paragraph 1(b), the legal person shall be exempted from liability if, prior to the commission of the offence, it has adopted and effectively implemented an organisational and management model which is suitable to prevent offences of the nature of the offence committed or to reduce significantly the risk of its commission.
In this case, the mitigation provided for in the second subparagraph of paragraph 2 of this Article shall also apply.

About sanctions indicated in **Article 9** of the PIF Directive, Spain foresees:

- criminal fine (main penalty);
  - a fine of up to twice the amount defrauded or wrongfully obtained if the offense is punishable by more than two years in prison (applied in basic cases);
  - a fine of two to four times the amount defrauded or wrongly obtained if the offense is punishable by more than five years in prison (applied in aggravated cases of Article 305 bis.1 of the Spanish Criminal Code).
    Aggravating factors include:
    - the defrauded amount exceeds 600,000 euros;
    - the fraud was committed within an **organization or criminal group**s;
    - the use of natural or legal persons, unincorporated entities, businesses, fiduciary instruments, tax havens, or no-taxation territories to hide or obstruct the determination of the identity of the taxpayer, the amount defrauded, or the assets involved;
- exclusion from entitlement to public benefits or aid (main penalty);
- temporary or permanent exclusion from public tender procedures (main penalty);
- temporary or permanent disqualification from the practice of commercial activities (additional penalty);
- placing under judicial supervision (additional penalty);
- judicial winding-up (additional penalty);
- temporary or permanent closure of establishments that have been used for committing the criminal offense (additional penalty).

In Spain, if these behaviors are committed by organized criminal groups, an **aggravating circumstance** is foreseen.

Sweden

Regarding compliance with **Article 3** of the PIF Directive, Sweden **meets the requirements** through an **amendment to pre-existing legislation**. The European Commission initiated an infringement procedure against Sweden in February 2022. Additionally, the Supreme Court case B5072-17 confirmed compliance.

VAT fraud in Sweden is classified as a general offense (**free-form**), meaning that no specific behaviors or actions are explicitly defined.

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5. The organisation and management models referred to in condition 1 of section 2 and the previous section shall meet the following requirements:
1º. They shall identify the activities in the scope of which the offences to be prevented may be committed.
2º. They shall establish protocols or procedures that specify the process for the formation of the legal person's will, the adoption of decisions and their execution in relation to them.
3º. They shall have appropriate financial resource management models to prevent the commission of crimes that must be prevented.
4º. They shall impose the obligation to report possible risks and breaches to the body responsible for overseeing the operation and compliance of the prevention model.
5º. Establish a disciplinary system that adequately sanctions non-compliance with the measures established in the model.
6º Periodic verification of the model and its possible modification when relevant breaches of its provisions are revealed, or when changes occur in the organisation, control structure or activity carried out that make them necessary.

With regard to the subjective element, Sweden applies liability for **both intent and negligence**.

Regarding compliance with the penalties for fraud outlined in **Article 7** of the Directive, Spain meets the requirements by imposing a maximum sentence of **six years imprisonment** for cases where fraud against the EU's financial interests results in damage exceeding EUR 100,000, the threshold for "considerable damage" [see Section 4 of The tax crime act 1971:69[110]].

Sweden had compliant provisions in place before the PIF Directive regarding compliance with Article 6, which addresses the **liability of legal persons** [see Section 37, art. 7, Swedish criminal code].

In relation to the sanctions listed in **Article 9** of the PIF Directive, Sweden only provides a criminal fine (not specified).

In Sweden, if these behaviors are committed by organized criminal groups, an **aggravating circumstance** is foreseen.

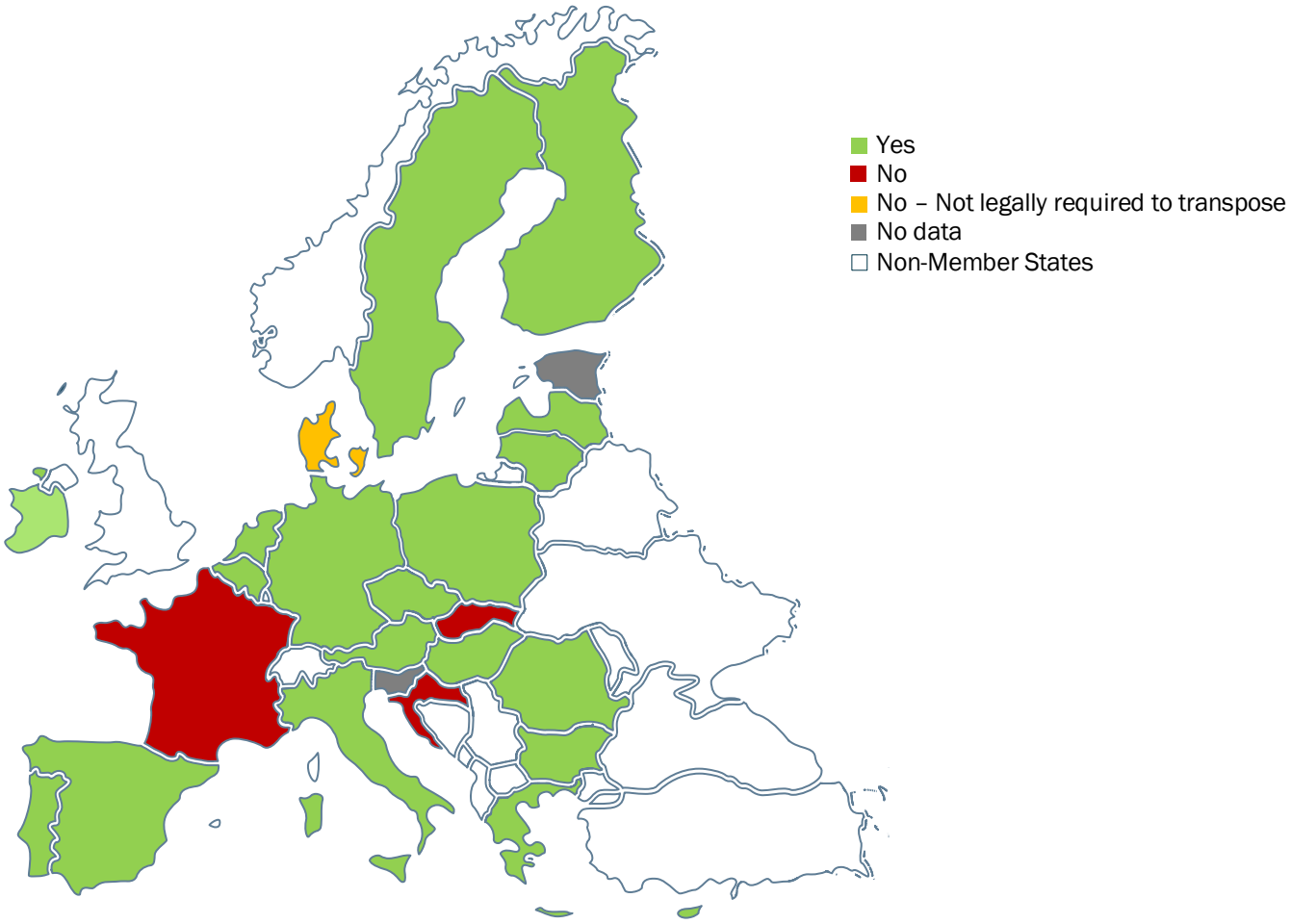
2.2 General considerations

Compliance with Article 3 of the PIF Directive

From the analysis of the regulations and the answers of the national experts of each Member State, it can be concluded that most of the MSs are compliant with Article 3 of the PIF Directive (21 out of the 25 respondents). Four of them (**Croatia, Denmark, France, and Slovakia**), instead, did not transpose the Directive: among them, Denmark was not legally required to transpose it, the other two (**Croatia and Slovakia**) had implemented some amendments to their previous legislation, still not meeting the requirements, and only one (**France**) did not amend the legislation at all (even if it seems to be compliant because there is no infringement procedure of the European Commission against France).

[110] Section 4 of the Tax Crime act 1971:69
If the crime referred to in section 2 is considered serious, the person is sentenced for serious tax fraud to imprisonment, for no less than six months and no more than six years.

Fig. 1: Answer to question 1: "Does your country's national legislation on VAT fraud committed by natural persons comply with Article 3 of the PIF Directive?" EU Member States. N=25. Year 2024.

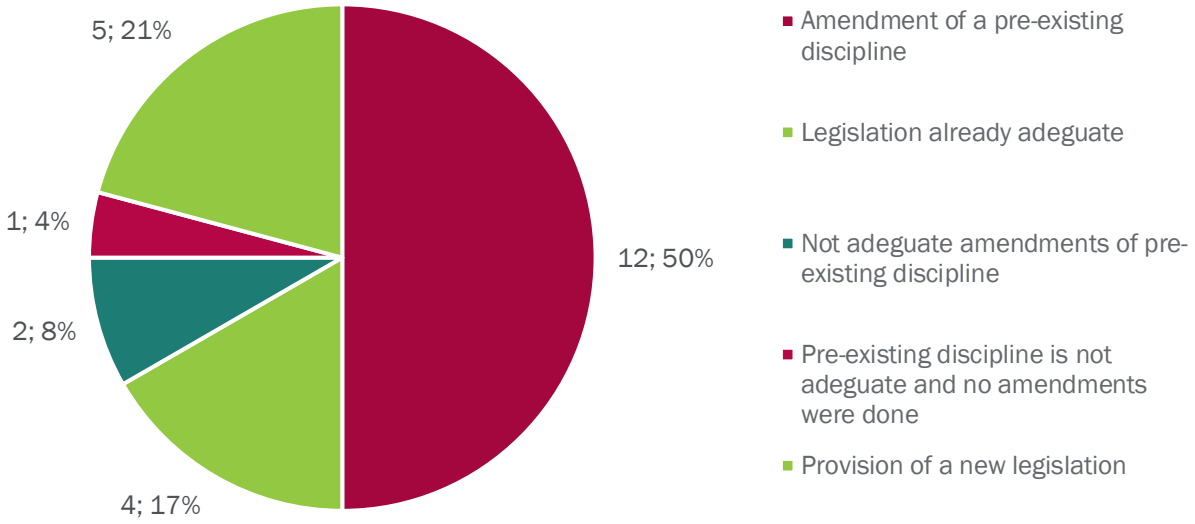


Source: elaboration by CSSC – project EU CYBER VAT – questionnaire for National Experts.

In addition to examining the compliance of the MSs, it was also investigated how compliance was achieved (Fig. 2): 12 MSs amended their pre-existing legislation (**Belgium; Bulgaria; Czech Republic; Germany; Ireland; Lithuania; Luxemburg; Portugal; Romania; Spain; Sweden**), 5 MSs (**Austria; Cyprus; Greece; Latvia; Malta**) introduced entirely new legislation, and 3 (**Hungary; Poland; The Netherlands**) already had provisions that were compliant with the Directive.

Conversely, a Member State (**France**) did not take any action to become compliant, and another (**Denmark**) was not legally required to do so. Finally, in two cases (**Croatia** and **Slovakia**), despite the adoption of amendments, they were not sufficient.

Fig. 2: Article 3 of the PIF Directive and national provisions. Absolute number and percentage value of EU Member States. N=24. Year 2024.



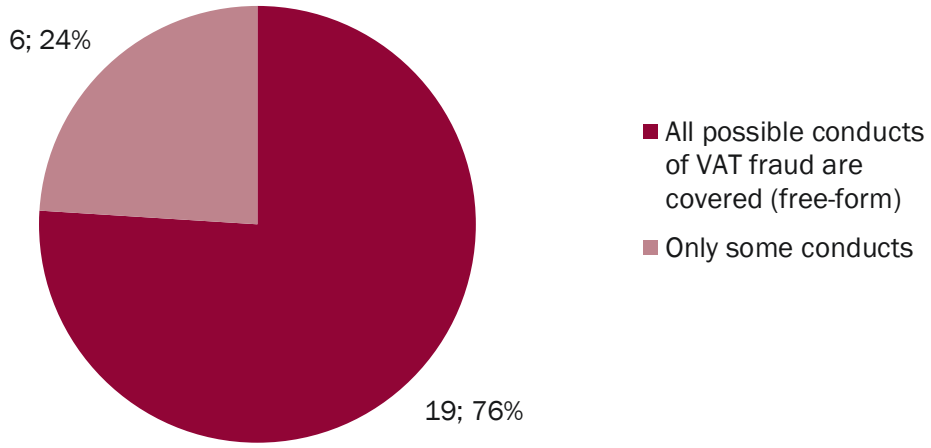
Source: elaboration by CSSC – project EU CYBER VAT – questionnaire for National Experts.

Although **Finland** is compliant with Article 3 of the PIF Directive, as stated in Government Proposal No. 231/2018; according to Finland's national expert, no significant changes were necessary to achieve compliance, indicating that the existing frameworks and legislation were already in line with the requirements of the Directive.

Objective element of the VAT-related offenses

In most MSs (19 out of 25), VAT fraud is classified as a general offense (free-form), meaning no specific behaviors or actions are explicitly defined (Fig. 3). Only 6 MSs (**Bulgaria, Croatia, France, Greece, Portugal,** and **Italy**) prescribe specific, binding actions in their criminal codes (Fig. 4).

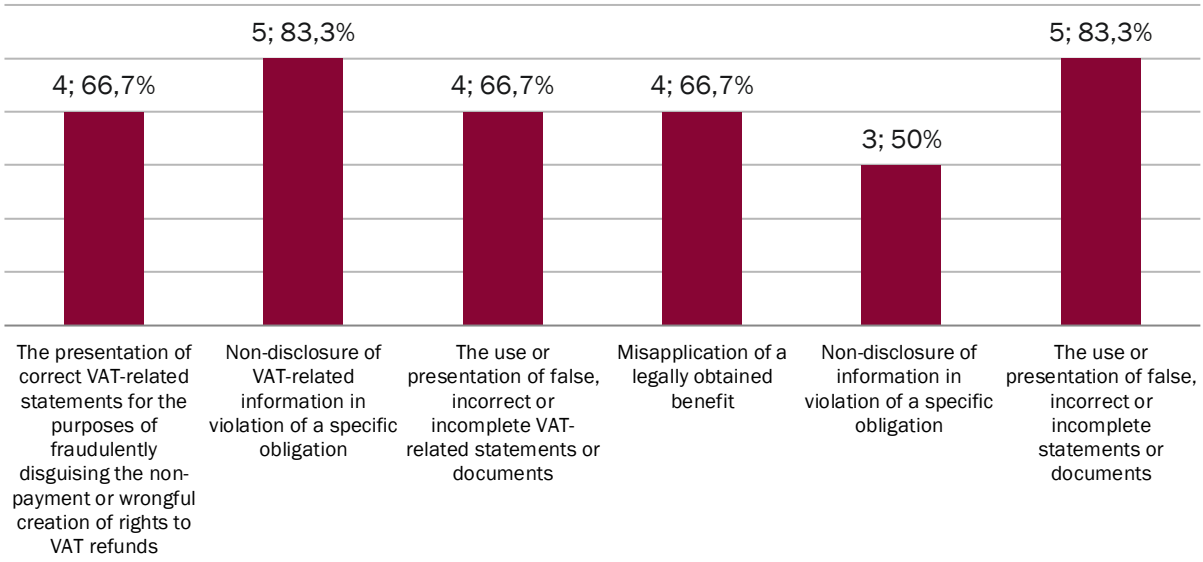
Fig. 3: Answer to question 1.1(a): "Which of the following acts fall under your national offence(s) of VAT fraud by national persons?". Absolute number and percentage value of EU Member States. N=25. Year 2024.



Source: elaboration by CSSC – project EU CYBER VAT – questionnaire for National Experts.

Article 3 of the Directive outlines certain actions that constitute VAT fraud against the EU. Among these, the MSs that do not classify VAT fraud as a general offense specify particular actions. In some cases, additional actions are included beyond those indicated in Article 3, while in others, not all of the specified actions are explicitly covered.

Fig. 4: Answer to question 1.1(b): "If only some conducts, which ones?". Absolute number and percentage value of EU Member States. N=6. Year 2024.



Source: elaboration by CSSC – project EU CYBER VAT – questionnaire for National Experts.

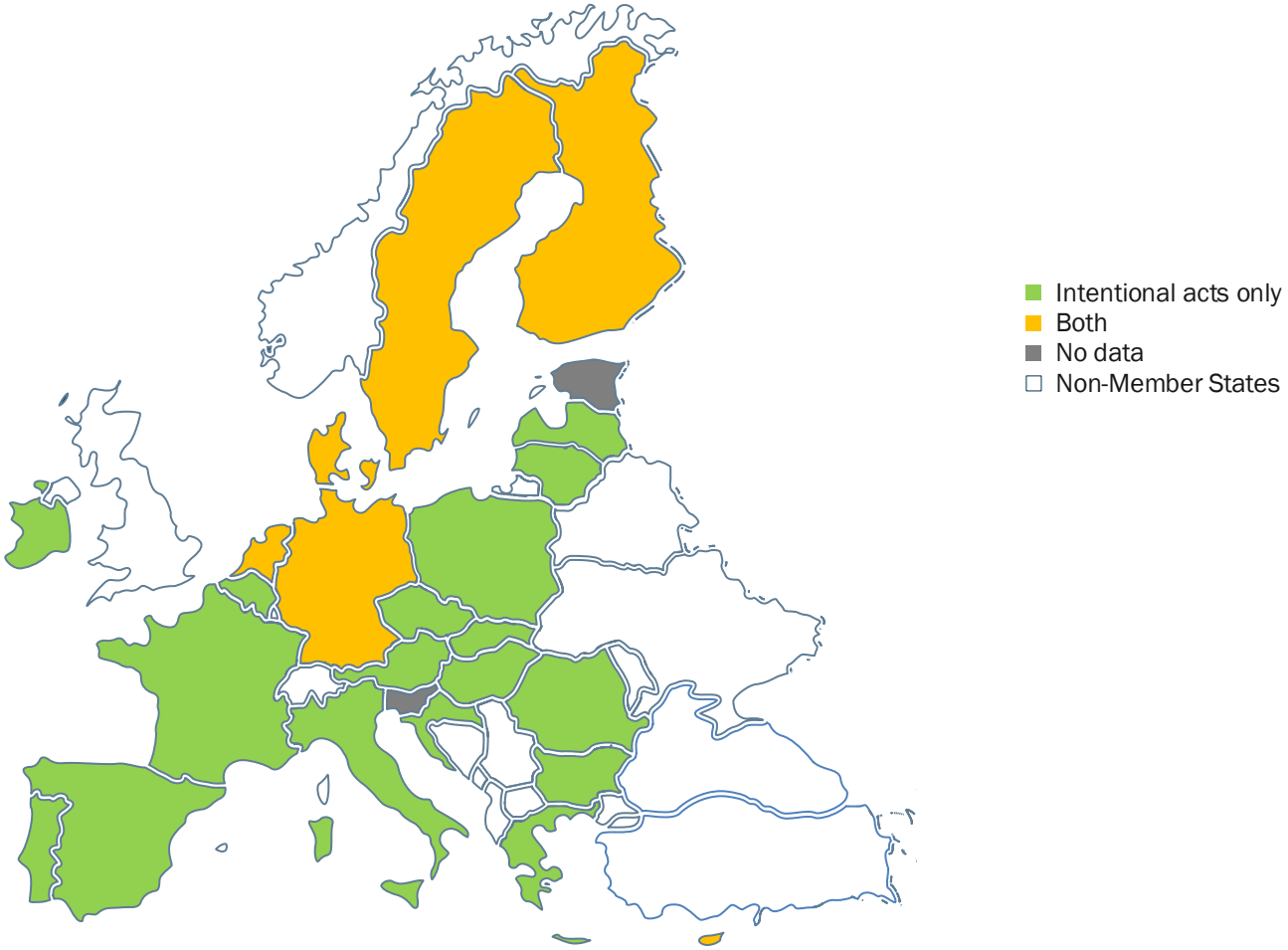
Subjective element of the VAT-related offenses

Almost two-thirds of the responding MSs (18 out of 25) only foresee criminal liability for VAT fraud when committed with intent.

None of the MSs apply criminal liability exclusively for negligence (culpa), while seven states apply liability for both intent and negligence (**Cyprus, Denmark, Finland, Germany, Malta, The Netherlands, and Sweden** – Fig. 5).

As already specified in the dedicated section, although **Romania** initially replied that VAT fraud is only punishable if committed intentionally, it later clarified that it is possible to punish an unintentional breach on the basis of negligence if damage has been caused to European funds, in conjunction with other provisions such as those on combating corruption and money laundry.

Fig. 5: Answer to question 1.2: "Which acts (1.1) are punishable with regard to the subjective elements of your national criminal offence of VAT fraud?". EU Member States. N=25. Year 2024.

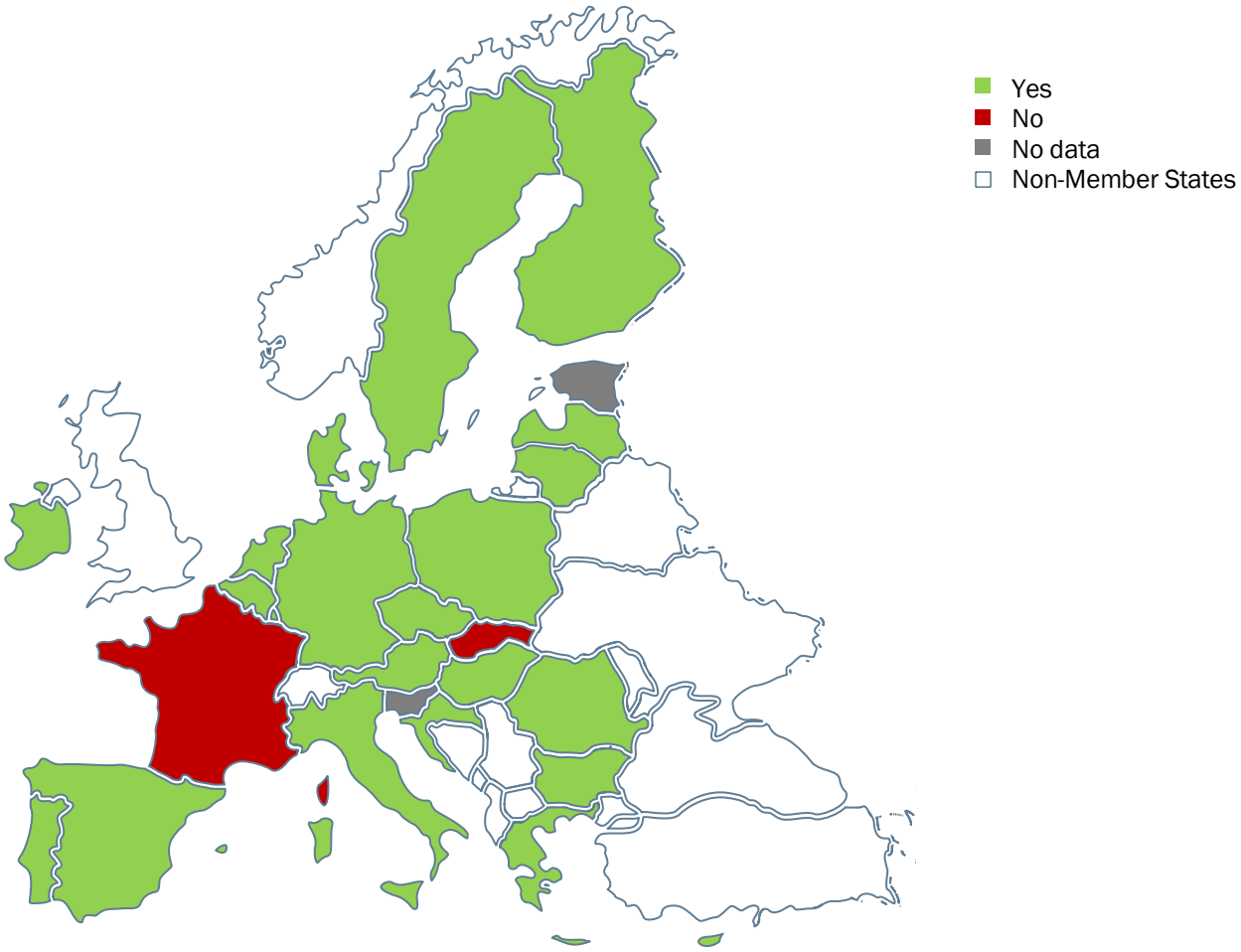


Source: elaboration by CSSC – project EU CYBER VAT – questionnaire for National Experts.

Compliance with Article 7 of the PIF Directive

Annex 2 delved into **compliance with the required sanctions for the commission of fraud, described in Art. 7 of the Directive** (Fig. 6). Specifically, the question concerned compliance with the required maximum sentence of at least 4 years of imprisonment in cases where the fraud committed against the financial interests of the EU had led to damage of over 100.000 € (threshold established for the "considerable damage").

Fig. 6: Answer to question 2: "Is your national law in line with Article 7 of the PIF Directive with regard to sanctions for natural persons committing VAT fraud?". EU Member States. N=25. Year 2024.

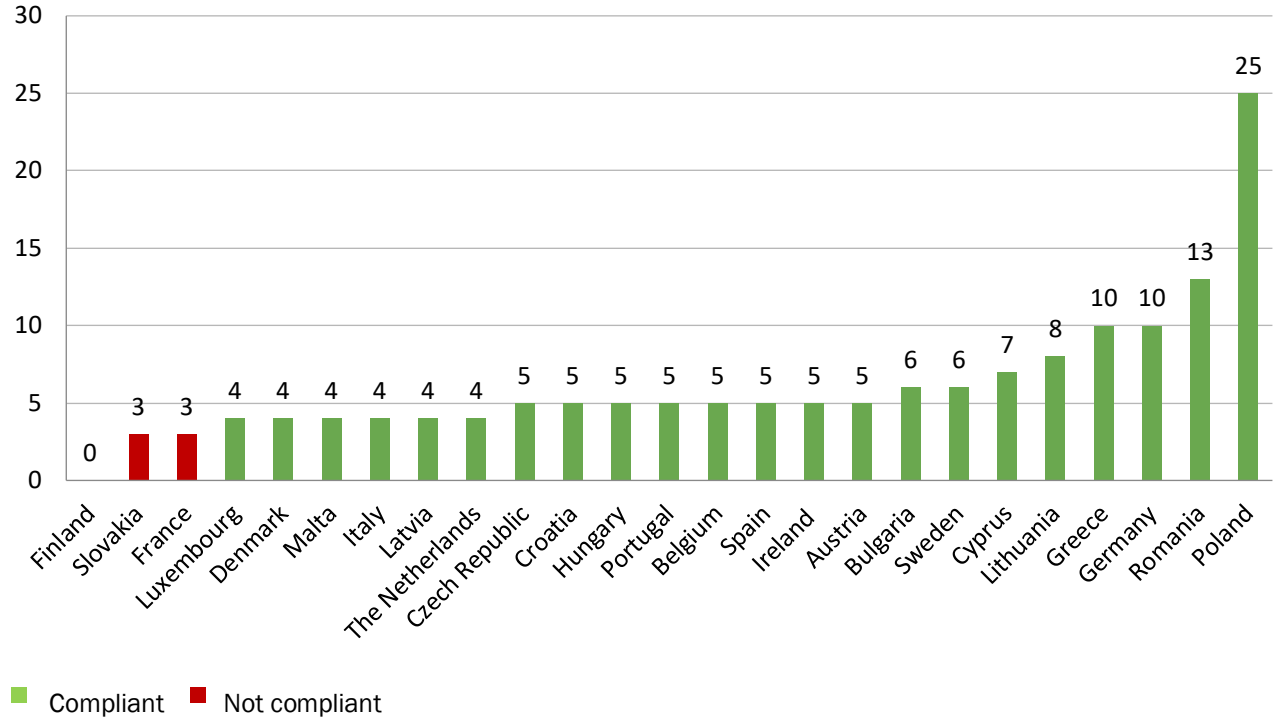


Source: elaboration by CSSC – project EU CYBER VAT – questionnaire for National Experts.

The findings indicate that only two states (**France and Slovakia**) still impose a penalty of less than four years in its maximum in such cases. France provides various penalties depending on the different offenses that may encompass VAT fraud, as there is no specific article dedicated to this crime. Regarding **Greece**, the national legislation does not stipulate a maximum sentence, but rather a minimum sentence of 10 years (Fig. 7).

In **Finland** emerged a particular case: although their provision amounts to a maximum of two years imprisonment and thus could not be compliant, compliance with Article 7 of the PIF Directive seems to be achieved by the joint provision of other articles of the Finnish Criminal Code (RL), in particular fiscal crimes and crimes against the Public Administration.

Fig. 7: Answer to question 2: "Is your national law in line with Article 7 of the PIF Directive with regard to sanctions for natural persons committing VAT fraud?". Maximum years of imprisonment in EU Member States when the fraud has led to damage of over 100.000€ (absolute number). Compliance of EU Member States with the required maximum penalty of at least four years of imprisonment. N=25. Year 2024.



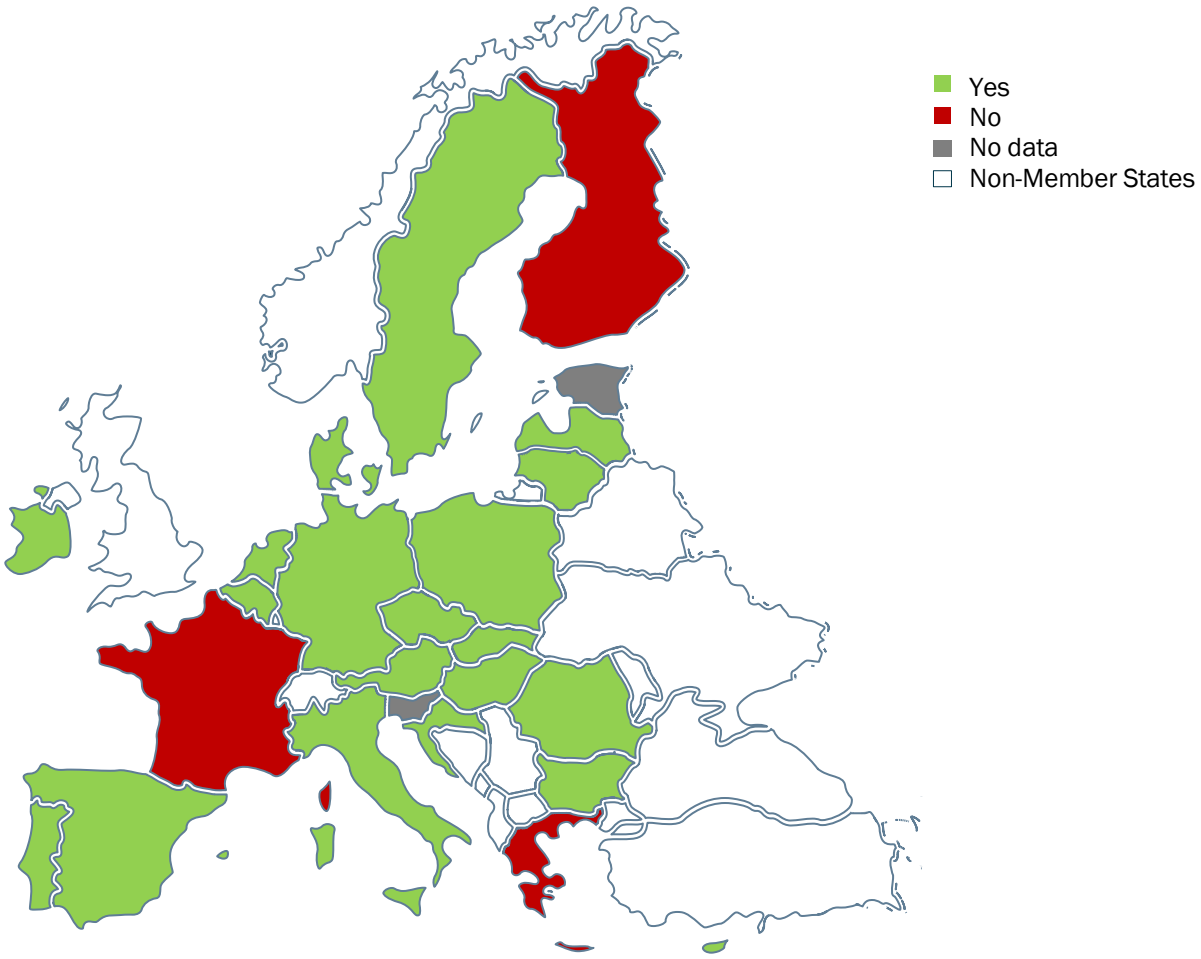
Source: elaboration by CSSC – project EU CYBER VAT – questionnaire for National Experts.

Aggravating circumstances for VAT fraud committed within a criminal organisation

Only one-fifth of the responding MSs (3 up to 25) do not provide for an **aggravating circumstance** in cases of VAT fraud committed by an organized criminal group, as stipulated in Article 8 of the PIF Directive.

Beyond the numerical data from the questionnaires, it is clear that all countries provide an aggravating factor for crimes committed within the context of organized crime. Those without specific provisions for VAT fraud apply common aggravating factors that can be applied to all offenses (e.g. France and Greece). Finland, on the other hand, directly refers to Framework Decision 2008/841/JHA.

Fig. 8: Answer to question 3: "Does your national law contain an aggravating circumstance for the commission of VAT fraud in the context of organized crime, as provided for in Article 8 of the PIF Directive?". EU Member States. N=25. Year 2024.

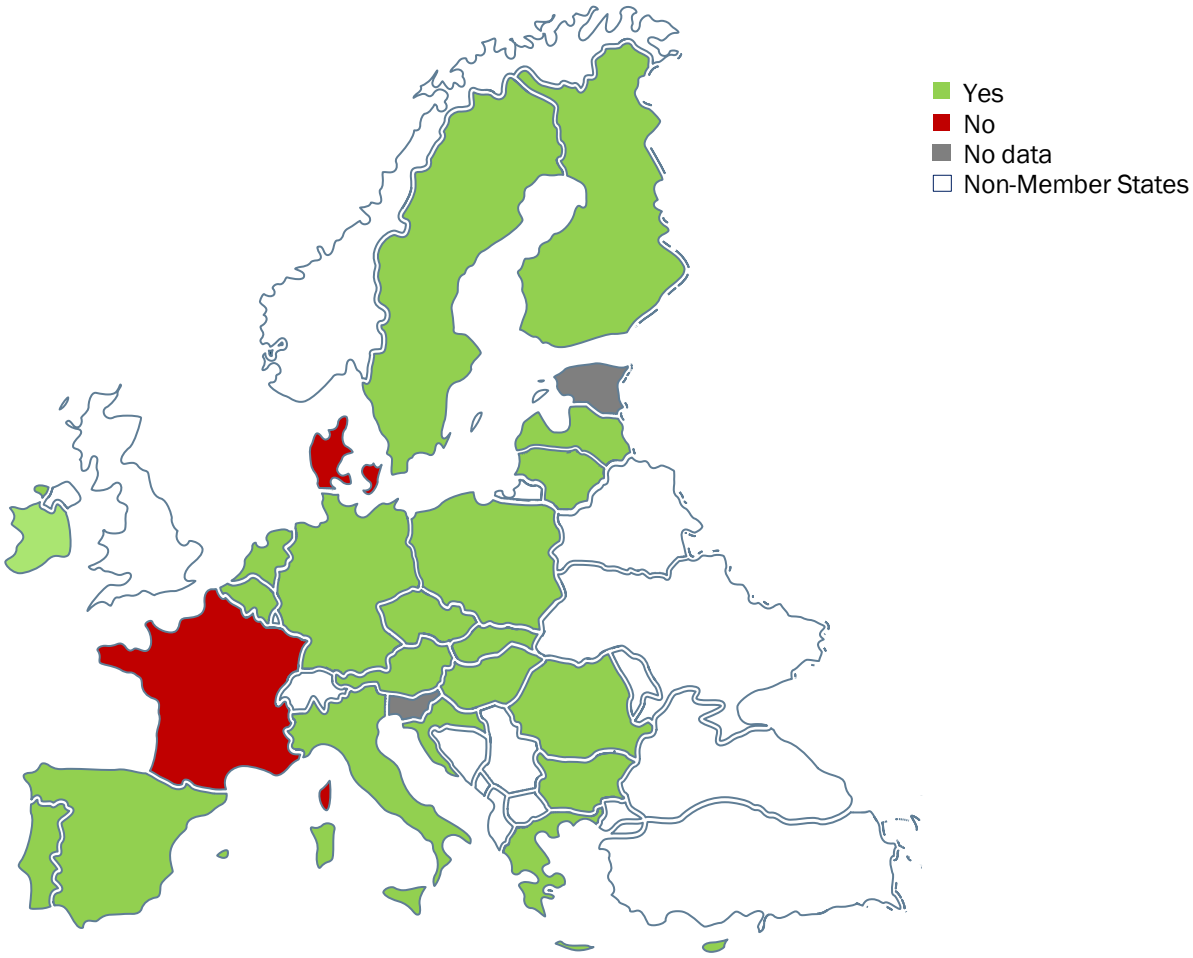


Source: elaboration by CSSC – project EU CYBER VAT – questionnaire for National Experts.

Compliance with Article 6 of the PIF Directive

Lastly, Annex 3 was dedicated to the assessment of the **compliance with Art. 6 of the PIF Directive**, involving the liability of legal persons: 23 States out of 25, whether through amendments, new disciplines, or because they were already compliant, correctly transposed the PIF Directive regarding these aspects. Two of them (**Denmark and France**) did not: **Denmark** because it is not legally required to transpose it, being however bound by the PIF Convention; **France** has not yet amended its legislation. However, even in France, corporate liability for crimes is foreseen.

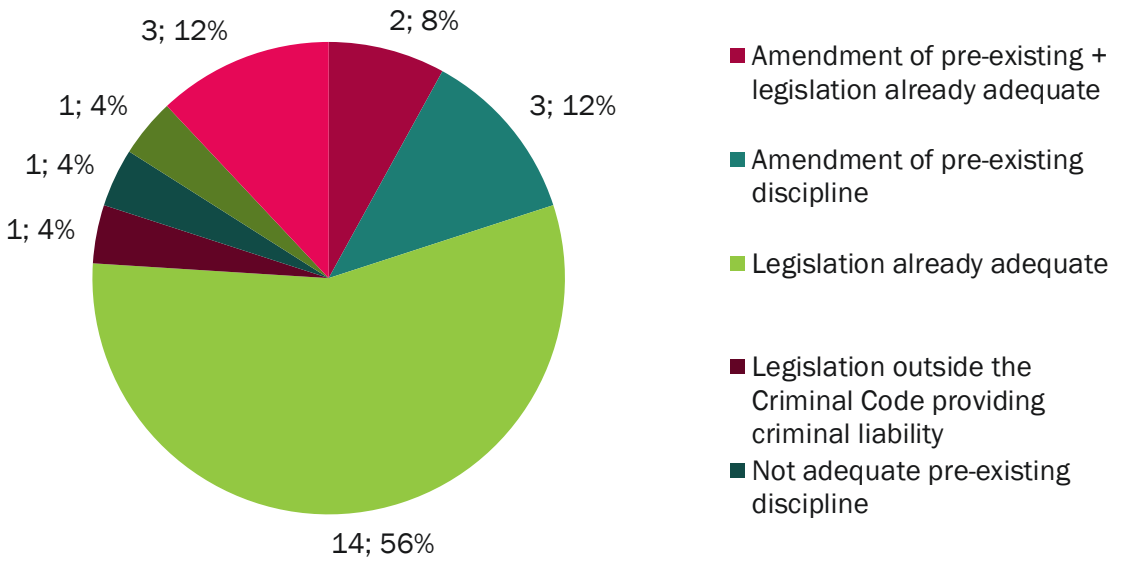
Fig. 9: Answer to question 4: "Is your national law on VAT fraud in relation to the liability of legal persons compliant with Article 6 of the PIF Directive?". EU Member States. N=25. Year 2024.



Source: elaboration by CSSC – project EU CYBER VAT – questionnaire for National Experts.

As for the way of achievement (Fig. 10) of compliance with Article 6, 14 MSs (**Austria; Belgium; Croatia; Czech Republic; Germany; Hungary; Latvia; Lithuania; Luxemburg; Poland; Romania; Slovakia; Sweden; The Netherlands**) already had compliant provisions before the Directive; 3 MSs (**Bulgaria, Finland** and **Italy**) amended their previous legislation to reach the compliance; 2 MSs (**Greece and Spain**) amended their pre-existing legislation even if it was already adequate; and 3 MSs (**Cyprus; Ireland** and **Malta**) enacted new legislations to achieve compliance. Two special cases remain: **Portugal** has enacted legislation outside the Criminal Code, and **Denmark** is not obliged to transpose the Directive.

Fig. 10: Article 6 of the PIF Directive and national provisions. Absolute number and percentage value of EU Member States. N=25. Year 2024.

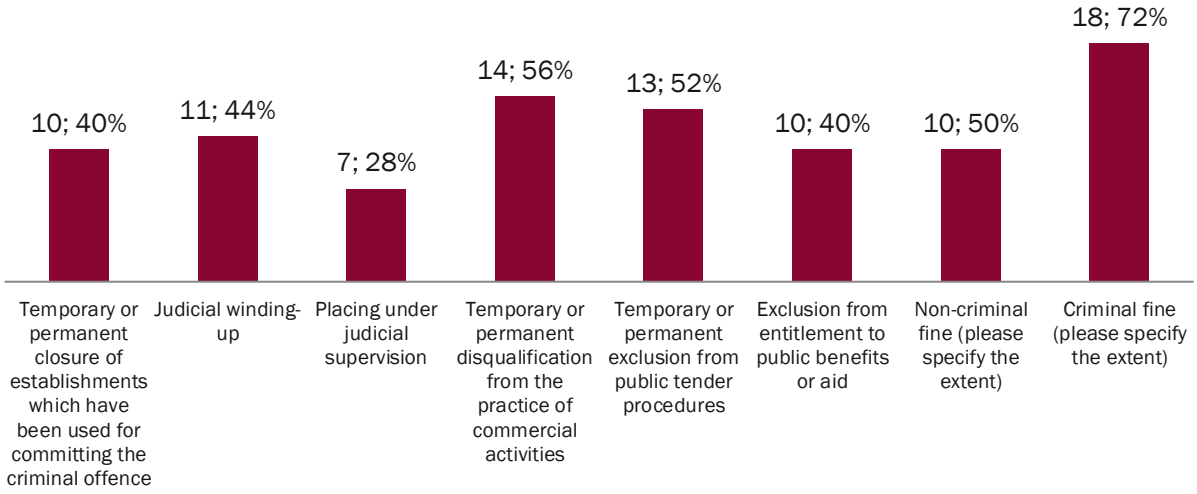


Source: elaboration by CSSC – project EU CYBER VAT – questionnaire for National Experts.

Sanctions with regard to legal persons

Lastly, regarding the sanctions (Fig. 11), these are mainly criminal, although there are also non-criminal ones (administrative or civil). Many of the responding MSs provide for sanctions as indicated in Article 9 of the PIF Directive, either in whole or in part.

Fig. 11: Answers to question 5: "Which of the following sanctions provided for in Article 9 of the PIF Directive in relation to legal persons recognized as responsible under Article 6 are provided for in your national law?". Absolute number and percentage value of EU Member States. N=25. Year 2024.



Source: elaboration by CSSC – project EU CYBER VAT – questionnaire for National Experts.

3. Criminal law on cyber VAT fraud

In this second section, the **legal framework for addressing cyber VAT fraud** in the national substantive criminal laws of Member States is analyzed. The aim is to assess whether the existing framework of offences at both the European and national levels is adequate to address emerging trends in cyber VAT fraud or whether **new criminal provisions are necessary** — for example, the introduction of a **specific offense for cyber VAT fraud**.

To explore this, the questionnaire included a **dedicated question** (*Q. 6*) asking how cyber VAT fraud is addressed under the criminal law of the respondent's country. The focus was on whether such offenses are explicitly recognized and punished. The objective was to examine how cyber VAT fraud—defined by the use of technology or digital tools—is incorporated into the national legal framework. The response options were designed to clarify the various approaches the Member States may adopt in addressing this challenge:

- "No": Indicates that cyber VAT fraud is not punishable not addressed or punishable under the Member State's criminal law.
- "Yes, there is a specific criminal offense of computer VAT fraud": suggests the presence of a distinct legal provision explicitly targeting VAT fraud conducted through technological means or within a digital environment.
- "Yes, it is punishable under the offense of VAT fraud (as described in Annex 1)": Indicates that cyber VAT fraud is encompassed within the broader definition of VAT fraud, without requiring a separate legal classification.
- "Yes, as an aggravating circumstance of VAT fraud": Signifies that the use of technology to perpetrate VAT fraud is treated as an aggravating factor, resulting in stricter penalties under the existing VAT fraud legislation.
- "Other": allows for alternative approaches or explanations not covered by the above options.

It can already be anticipated that, as mentioned, **not all MSs provide for an autonomous offense of VAT fraud, as in many cases it is included within the broader category of tax fraud or tax evasion**. Therefore, a significant number of specific provisions for cyber VAT fraud was not expected, especially considering that, although widespread, it has not yet been studied extensively in a specific manner. Moreover, in most cases, as observed, VAT fraud is **considered a free-form offense**, or – even when a precise list of conducts is provided – these actions are broadly defined. Consequently, it was expected that the cyber element **could be easily encompassed within these existing provisions**.

After collecting the responses to the questionnaire, this topic became a **key point of discussion during the first online focus group**, which aimed, among other objectives, to explore **effective options for the criminalization of cyber VAT fraud**. Participants were asked to share their views on whether there is a need for a specific criminal offense for VAT fraud in the digital space and, for those who did not consider this necessary, whether it is sufficient to address it under the broader category of "traditional" VAT fraud, or if it should be treated as an aggravating circumstance within the existing VAT fraud framework. Minutes from the meeting were recorded, and the insights and discussions from the session were incorporated into this study.

3.1 Study results

Austria

Austria considers cyber VAT fraud punishable **under the traditional category of VAT fraud**, due to the free-form nature of this crime.

According to national expert opinions, there is **no necessity for a distinct cyber VAT offense**. Existing European VAT regulations are already **highly complex** and provide robust protection against VAT fraud and safeguard the EU's financial interests. The wide array of provisions and tools in place is deemed sufficient, and introducing additional national laws would only add unnecessary complexity without improving enforcement.

Belgium

In Belgium, cyber VAT fraud is **punishable under the criminal offense of VAT fraud**.

The existing **VAT offenses cover any kind of VAT fraud, regardless of the means** (or *modi operandi*) used, thus including fraud committed by electronic means. Moreover, the Belgian Criminal Code entails a number of specific cyber offenses that may apply in addition to the VAT offense (e.g. cyber forgery (Art. 210bis Criminal Code), hacking (Art. 550bis, §1-§2 Criminal Code) or data interference (Art. 550ter, §3 Criminal Code).

When the technological element concerns the production or forgery of documents, a public prosecutor might also charge the offenders with the production and use of false documents. Several provisions might apply: Article 196 of the Criminal Code, which contains the general criminal offense of forgery, Article 197 of the same Code the general offense of use of forged documents; Article 73bis of the VAT Code which specifically criminalizes the production and use of false documents about VAT fraud, and finally, Article 210bis of the Criminal Code, which criminalizes cyber forgery. As Article 73bis of the VAT Code is the most specific legal provision, it is usually this one that mentioned in the indictment of the public prosecutor when charging a suspect with the forgery in the context of VAT fraud.

The national expert highlighted that, on a different though related point[111], it is important to highlight that the taxpayers' fiscal liability (i.e. liability with regard to the taxes that are due) is also quite extensive, for example in case of an import from a third country followed by an intracommunity delivery. In such case, the so-called "customs procedure 42" is applied, a mechanism that enables the EU importer to obtain a VAT exemption to avoid pre-financing VAT at the moment of importation. Consequently, the VAT will only be due in the Member State of the destination. While benefiting from the VAT exemption, the importer in the first EU Member State (i.e. the point of entry on EU territory) will often be jointly liable for the whole chain of (subsequent) transactions if it eventually results in a VAT loss in the Member State of destination. If the importer is represented by a tax representative, the latter often shares – or may even carry alone – the burden of VAT liability. Problems arise in particular when adequate proof of onward transport

[111] Repression is only one enforcement objective, but prevention of fraud and recovery of VAT are equally important objectives in the fight against VAT fraud. Therefore, when reflecting on enhancing criminal liability (whether by introducing new offences or by creating new aggravating circumstances), it should be considered that other liability regimes and enforcement mechanisms are already in place.

outside Belgium (when it constitutes the point of entry into the EU) cannot be presented if it turns out that the consignee of the goods is not the one mentioned on the invoices or transport documents, or if the buyer is a fraudulent actor. Application of customs procedure 42 therefore requires a thorough screening of the parties involved in the chain (following the Know Your Customer (KYC) principle), a rigorous procedure for collecting sufficient proof of transport (which may involve working with an official destination document, which must then be correctly signed off) and clear agreements with clients that provide sufficient guarantees for representatives.

Bulgaria

Cyber VAT fraud is **punishable under the criminal offense of VAT fraud**.

Specifically, it is punishable under the general tax fraud criminal legislation contained in Art. 255 and 255a of the Criminal Code.

Croatia

In Croatia, cyber VAT fraud is **punishable under the major category of the VAT fraud**, as described in Annex 1 and outlined above.

Cyprus

Cyprus **is the only MS in the UE that provides for a specific offense of cyber VAT fraud**.

In case of a cyber VAT fraud, the sanctions are:

- for physical persons:
  - is subject to a prison sentence not exceeding seven (7) years and/or a fine not exceeding fifty thousand euros (€50,000) and/or both of these penalties, when the loss or benefit exceeds one hundred thousand euros (€100,000);
  - is subject to a prison sentence not exceeding four (4) years and/or a fine not exceeding thirty thousand euros (€30,000) or both of these penalties, when the damage or benefit exceeds ten thousand euros (€ 10,000), but are not greater than one hundred thousand euros (€100,000);
  - is subject to a fine not exceeding ten thousand euros (€10,000) when the loss or benefit is less than ten thousand euros (€10,000).
- for legal persons:
  - is subject to a fine not exceeding 5 hundred thousand euros (€500,000).
  - In addition, the court might decide:
    - to order the freezing of its activities;
    - to order a court liquidation;
    - to order the temporary or permanent closure of its establishments.

Czech Republic

On Q. 6 of the questionnaire, Czech Republic answered "**Other**" because the criminal offense of cyber VAT fraud in CZ is punishable as a **general offense of tax evasion** under art. 260 of the Criminal Code as amended by Act No. 315 of 2019 Sb, which implemented the BIP Directive, and not as "traditional" VAT fraud, because there is not a specific crime for it.

The national expert explained that the **Czech Republic handles all tax fraud, including VAT fraud, as a general criminal offence**. He questioned the necessity of creating a specific offense for VAT fraud and found it hard to distinguish VAT fraud from other tax-related crimes. While investigative methods may differ due to the nature of VAT fraud, the criminal consequences should remain consistent across all types of fraud.

Denmark

In Denmark, cyber VAT frauds are **punishable under the major category of VAT fraud**, as described in Annex 1 and outlined above.

Estonia

Even though there were no responses to the questionnaire, it can be considered **based on desk research** that Estonia does not have a specific crime for cyber VAT fraud. Instead, cyber VAT fraud is **covered under broader provisions** related to VAT fraud or tax fraud in general.

Finland

Also in Finland, cyber VAT frauds are **punishable under the major category of VAT fraud**, as described in Annex 1 and outlined above.

France

The answer to Q. 6 "Is cyber VAT fraud punishable under the criminal law of your country?" was "**No** - In the French Criminal Code, there is no specific provision that exclusively addresses cyber VAT fraud."

This response, while indicating the choice "No," immediately clarifies that cyber VAT fraud is not disregarded as a crime but rather **lacks an autonomous classification**.

Considering that in France, as explained, there is no specific offense of VAT fraud, but it is punished based on various legislative provisions, it can be assumed that the same approach.

Germany

In Germany, cyber VAT fraud is not an autonomous crime, but it is **punishable under the major category of VAT fraud**, as described in Annex 1 and outlined above.

Greece

In Greece, cyber VAT frauds are **punishable under the "traditional" provision of VAT fraud.**

The national expert agrees with most experts: **no specific cyber-VAT fraud offense is needed**. Introducing such an offense would overcomplicate the legal system without adding significant value. The current framework, including **specialised tax crime teams**, is sufficient.

Hungary

In Hungary, cyber VAT frauds are **covered by VAT fraud in general**.

According to the national expert, there is **no need for new criminal offenses or aggravating circumstances unless cyber VAT fraud becomes widespread**. Hungary already has specific offenses for fiscal fraud, so the introduction of cyber VAT fraud as a separate offense only makes sense if the crime is widespread and seriously affects State's revenue. The national expert highlighted that **digital crimes might require more resources to investigate** but questioned the need for further substantial legislative complexity.

Ireland

In Ireland, cyber VAT fraud is **punishable under the criminal offense of VAT fraud**. There is no specific offence of cyber VAT fraud nor any provision for use of technology as an aggravating circumstance. Cyber VAT fraud would likely be treated in the same manner as non-cyber VAT fraud.

Under the Criminal Law (Theft and Fraud) Offences Act 2001 as amended, there is an offence of "Making gain or causing loss by deception" (section 6). This is a broadly worded provision that could be used in VAT fraud contexts and carries a maximum sentence of 5 years imprisonment. Notably, there is also a similar offense of "Unlawful use of a computer" (section 9) which carries a maximum sentence of 10 years. This is perhaps the best example under Irish Criminal Law of how the use of technology could be seen as akin to an aggravating circumstance.

The national expert concurs with others on the **unnecessary introduction of specific offenses**. Existing VAT-related offences are sufficient.

Italy

In Italy, there is **no specific offense for cyber VAT fraud either**. Instead, it is included within the broader category of VAT fraud, as VAT fraud is considered a crime with a free-form structure.

For the national expert, there is **no need for specific Cyber-VAT fraud provisions**, because fraud increasingly involves digital tools, but this is **just an evolution of traditional fraud**. The difficulty lies in identifying the perpetrators, not the method of the fraud.

Also in this case, the expert highlighted the importance of improving the investigative tools on this cybercrime, as for cybercrimes in general. In the fight against cybercrime, or more generally against crimes committed through technology, it now seems that the procedural aspect of criminal law is more significant than substantive criminal law. So, it is **more important to develop new tools or clarify how they should be applied, rather than creating new legal provisions**.

Latvia

In Latvia, cyber VAT fraud is **not an autonomous crime**, but it is **punishable under the major category of VAT fraud**, as described in Annex 1 and outlined above.

Lithuania

The same for Lithuania, where cyber VAT frauds are **covered by VAT fraud in general**, as described in Annex 1 and outlined above.

Luxembourg

Cyber VAT fraud is **punishable under the criminal offense of VAT fraud** (as described in Annex 1).

The national expert highlighted that **some of the features of a cyber VAT fraud may even lead to a requalification** from mere "tax fraud" to "*escroquerie fiscale*", **with aggravated penal sanctions**: Art. 80 of the Lux VAT law establishes that: "If the perpetrator has systematically used fraudulent tactics with the intention of concealing relevant facts from the administration or in persuading it of incorrect facts and the fraud so committed or attempted relates, per reporting period, to a significant amount of value added tax evaded or refund improperly obtained either in absolute amount or in relation to the value added tax due per reporting or refund period effectively due per declaration period, the perpetrator will be punished, for tax fraud ("*escroquerie fiscale*"), by imprisonment from one month to five years and a fine of 25,000 euros in an amount representing ten times the value added tax evaded or the refund wrongly obtained".

Malta

In Malta, cyber VAT fraud is not an autonomous crime, but it is **punishable under the major category of VAT fraud**, as described in Annex 1 and outlined above.

The Netherlands

In The Netherlands, cyber VAT fraud is not an autonomous crime, but it is **punishable under the major category of VAT fraud**, as described in Annex 1 and outlined above.

The national expert highlighted that in the Netherlands, **all VAT operations are reported electronically**, making all VAT fraud digital by definition.

There is **no need for a specific offense for cyber VAT fraud**, as crimes are already treated in a technology-neutral manner. **An aggravating circumstance for the use of digital means would not add significant value either**.

Poland

In Poland, cyber VAT fraud is not an autonomous crime, but it is **punishable under the major category of VAT fraud**, as described in Annex 1 and outlined above.

According to the national expert, the **current VAT fraud laws are adequate**. Poland uses a combination of administrative and criminal sanctions to fight VAT fraud and has seen success in reducing the VAT gap. As cyber fraud becomes more common, adjustments may be needed, but for now, traditional methods are effective.

Portugal

In Portugal, cyber VAT fraud is not an autonomous crime, but it is **punishable under the major category of VAT fraud**, as described in Annex 1 and outlined above.

Romania

Cyber VAT frauds are **punishable under the general offence of VAT fraud**, as defined in Annex 1 and above.

Also, for the Romanian national expert, there is **no need for a specific cyber VAT offense**. Romania has **harsh penalties for VAT fraud, including up to 16 years in prison**. The actual national focus is on reducing the VAT gap, and electronic reporting (e.g., e-invoicing) already covers the technological aspects. For the national expert, the current legal framework is comprehensive enough.

Slovakia

The answer to Q. 6 of the questionnaire "Is cyber VAT fraud punishable under the criminal law of your country?" was "**No**".

Nevertheless, considering what has been described in the previous section, it is understood that the response does not intend to disregard cyber VAT fraud as a crime, but simply highlights the **absence of a specific offense**, with such fraud being considered **part of the broader category**, especially given the free-form nature of VAT fraud as a crime.

Slovenia

Even though there were no responses to the questionnaire, it can be considered based on **desk research** that Slovenia does not have a specific crime for cyber VAT fraud. VAT fraud, including cyber VAT fraud, is typically addressed **under the broader framework of tax fraud offenses in the country**. These offenses are part of the general criminal provisions regarding fraud and tax evasion.

Spain

In Spain, cyber VAT fraud is not an autonomous crime, but it is **punishable under the major category of VAT fraud**, as described in Annex 1 and outlined above.

Also according to the Spanish national expert, there is **no need for a specific offense**. Cyber-VAT fraud is a natural evolution of VAT fraud, and the use of technology should not change the classification of the crime. Spain **already has aggravated offences for using shell companies**, regardless of whether technology is involved. The existing general tax fraud regulations cover all methods, including electronic means. The main need is for **specialised professionals and technical resources** rather than new legislation.

Sweden

In Sweden, cyber VAT fraud is not an autonomous crime, but it is **punishable under the major category of VAT fraud**, as described in Annex 1 and outlined above.

3.2 General considerations

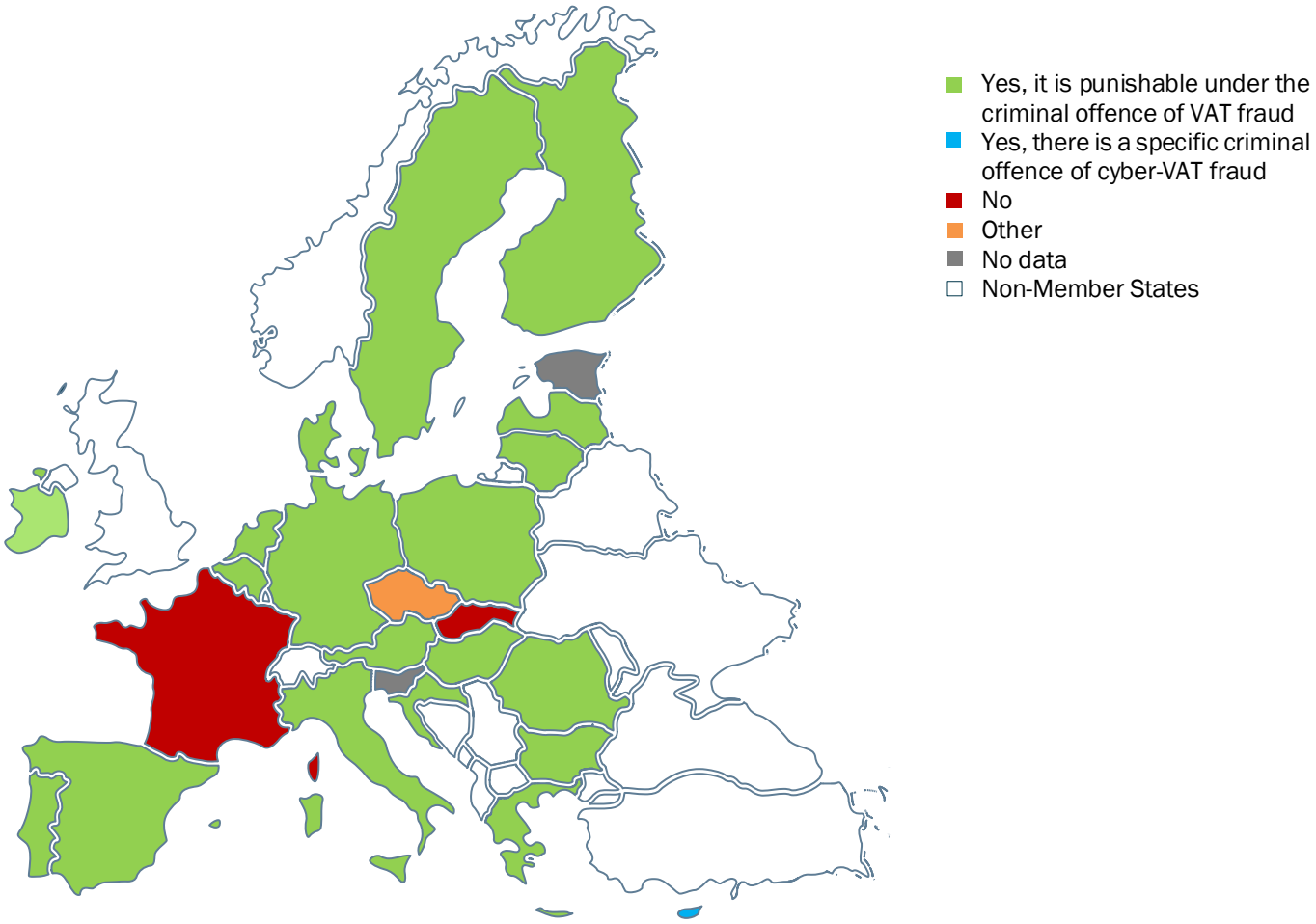
As can be seen (Fig. 12), the **majority of other MSs (21) consider this offense punishable under the traditional category of VAT fraud**, due to the free-form nature of this crime.

The consensus among the participants was that there is **no need to introduce a specific offense for Cyber-VAT fraud**. Most participants agreed that Cyber-VAT fraud is an evolution of traditional VAT fraud and can be adequately addressed under existing legal frameworks. There was also broad agreement that specialized investigative units and enhanced technical resources would be more effective than creating new offenses or treating cyber elements as aggravating circumstances.

Even in this type of cybercrime, as with others that can also be committed "offline", where technological elements are configurable as modes of conduct or specific components (so-called cybercrime in a broad sense), it is much more important to regulate the investigation phase, specifically the collection of evidence. Therefore, investigative tools suitable for managing the technological elements of criminal conduct are needed, tools that assist with real-time monitoring and analyze — possibly with the help of artificial intelligence — of the large volume of data being collected. For most experts, the measures to combat VAT fraud, both cyber and traditional, are already in place. There is no need to add more specific offenses, even if they are more tailored, but it is essential to ensure the certainty of their application and standardize them as much as possible, while also increasing cooperation. These issues will be discussed in more detail in the next section.

It is also significant that in many Member States, there is not even a specific offence for VAT fraud, which is generally included under the broader categories of fraud or tax evasion. Therefore, the idea of introducing such a specific offense as cyber VAT fraud is not feasible for certain legal systems.

Fig. 12: Answer to question 6: "Is cyber VAT fraud punishable under the criminal law of your country?" EU Member States. N=25. Year 2024.



Source: elaboration by CSSC – project EU CYBER VAT – questionnaire for National Experts.

4. Investigation and prosecution of VAT fraud and cyber VAT fraud

This section examines VAT fraud and cyber VAT fraud from a **criminal procedural perspective**, focusing on the investigative tools, measures, and activities available to police, judicial, and tax authorities across different Member States. It evaluates the **effectiveness** of these measures and investigates whether significant disparities between Member States could hinder efforts to combat VAT fraud and cyber VAT fraud.

It is important to highlight that **during the investigative phase, a fundamental role is played by European institutions and international cooperation agencies**, such as OLAF, EPPO, Eurojust, Europol, the European Court of Auditors, as well as the various programs implemented by the EU both internally and with third countries over the years. Just to provide some figures, in 2023, Eurojust dealt with almost 300 PIF-related cases, some involving the EPPO (<10% in 2022). In addition to supporting 3 ongoing JITs (Joint Investigation Teams) in this area, Eurojust also assisted 3 new JITs opened in 2023[112]. The EU Court of Auditors reported in 2023 19 cases of suspected fraud to the European Anti-Fraud Office (OLAF) following identification during their audit work. 17 of those cases were also reported to the European Public Prosecutor's Office (EPPO)[113].

The analysis considers whether the activities permitted for tax authorities and law enforcement agencies in the four phases of the anti-fraud cycle—prevention, detection, investigation and prosecution, and recovery and sanctions—are adequate and effective, with particular attention to digital investigations and the use of digital forensic tools.

Additionally, the legal framework concerning **jurisdiction** and **limitation periods** for VAT fraud and cyber VAT fraud is reviewed.

To achieve these objectives, the following topics were addressed in a questionnaire distributed to national experts:

- **Investigative tools and measures**: identification of the tools and measures applicable at the national level to combat VAT fraud (*Q.7*).
- **Effectiveness for cyber VAT fraud**: assessment of whether these measures can also be effectively utilized to address cyber VAT fraud (*Q.8*).
- **Potential improvements**: exploration of possible enhancements to better combat VAT fraud (*Q.9*) and cyber VAT fraud (*Q.10*).
- **Jurisdictional conditions**: analysis of the conditions governing national jurisdiction (*Q.11* and *Q.12*).
- **Limitation periods**: an examination of the limitation period, including its details and specific applications (*Q.13*, *Q.13.1*, and *Q.13.2*).

After collecting responses to the questionnaire and integrating them with the preliminary analysis conducted by CSSC, this topic became the second key item of discussion in the first online **focus group**. The discussion focused, among other things, on identifying the most effective digital

[112] Eurojust, "Annual Report 2023", retrievable from https://www.eurojust.europa.eu/sites/default/files/assets/eurojust-annual-report-2023-en.pdf.
[113] Europea Court of Auditors, "Our activities in 2023", retrieved from: https://www.eca.europa.eu/ECAPublications/AAR-2023/AAR-2023_EN.pdf

investigative measures available to national law enforcement authorities, such as open-source intelligence tools, artificial intelligence, and other digital forensic techniques.

Participants, including experts and stakeholders, were also invited to recommend digital investigative tools that should receive increased investment to strengthen the fight against online VAT fraud in the EU, such as tools for stakeholder correlation and cross-checking. Meeting minutes were carefully documented, and the insights and discussions were incorporated into this study.

Each EU Member State has its own distinct characteristics and regulations governing investigations, leading to considerable diversity that complicates a comprehensive detailing of every legal system within the Union. This analysis aims to outline the primary frameworks each Member State employs to combat both traditional and cyber VAT fraud, considering the impact of these crimes both domestically and across Europe.

4.1 Study results

Austria

First, the national expert emphasized the importance of **distinguishing between tax investigations and criminal investigations**. Regarding criminal investigations, all measures outlined in the **general Criminal Procedure Code** are applicable, including **surveillance, wiretapping, searches of dwellings, and the freezing and seizure of evidence such as documents and data**. Interceptions are permitted when the fraud is deemed serious — i.e. when it exceeds a specific threshold or is committed by an organized criminal group.

In terms of **tax investigations, significant organizational measures have been implemented in recent years**. Notably, the results Tax Investigation Authority established a specialized "Umsatzsteuer-Betrugsbekämpfungs-Competence-Center (USt-BBCC)", an **Anti-VAT Fraud Competence Center**. Tax authorities also employ **AI-based electronic analysis tools**.

The expert also noted that **Austria uses both general and specialized investigative measures in combating VAT fraud and cyber VAT fraud**, with a strong emphasis on **data analysis and inter-agency collaboration**. A dedicated anti-fraud unit within the Ministry of Finance **automatically scans all data to identify risks**. If no risks are detected—not only regarding VAT fraud but also broader tax fraud—the taxpayer's tax return is processed and returned the following day. If risks are identified, a more thorough investigation is conducted. The expert further mentioned that the **Artificial Intelligence Act is underway** and will address sensitive personal data, imposing restrictions on its use. This will introduce additional standards for applying digital data analysis. Considering the AI Act's risk-based differentiation, its provisions for high-risk AI systems and data processing can be inferred. This includes **stringent rules to ensure transparency, accountability, and the protection of taxpayers' rights**.

Regarding **jurisdiction**, Austria asserts its jurisdiction over financial offenses committed within its borders. An act is deemed to have been "committed" on Austrian territory if either the action or the result occurs there, or if it should have occurred according to the perpetrator's plan. Additionally, if the financial offense is committed in the EU's customs territory but discovered in Austria, or if it is committed against an Austrian tax authority official working abroad based on an international

treaty, it is considered to have been committed in Austria under § 5 para. 2 FinStrG[114]. The personality principle applies as well, meaning that if an Austrian national commits fraud, Austria retains jurisdiction.

Austria is **compliant with Article 12 of the PIF Directive**, which specifies a **minimum limitation period of five years** for the criminal offense of VAT fraud. This aligns with Austria's general limitation period of five years for the enforcement of tax offense convictions. Similar to most of the respondents (including Belgium, Croatia, Cyprus, Czech Republic, Hungary, Ireland, Poland, Romania, Sweden, and the Netherlands), Austria specifies that penalties for VAT fraud can be enforced for at least five years from the date of the final conviction, whether the penalty involves more than one year of imprisonment or a sentence for a crime punishable by up to four years of imprisonment.

Belgium

In Belgium, as in other EU Member States, the investigative powers of the public prosecutor's office are primarily established by the **Code of Criminal Procedure** (CCP). These powers are not specific to VAT fraud but apply to investigations of all offenses. However, **specific investigative powers related to VAT fraud are detailed in the VAT Code** (Art. 59 and following[115]). These powers fall under the jurisdiction of the VAT administration rather than the public prosecutor's office and are employed in administrative investigations.

The VAT administration lacks the authority to initiate criminal prosecutions. As highlighted by the national expert, if a case warrants criminal proceedings (e.g., in cases of serious fraud), the administration must notify the public prosecutor's office, in accordance with Article 29, §§ 2-3 of the CCP[116]. Once the public prosecutor's office assumes the case, the remaining investigation is

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[114] Article 5 FinStrG:
(1) A financial offense is only punishable if it has been committed within the country.
(2) A financial offense is considered to have been committed within the country if the perpetrator acted within the country or should have acted within the country, or if the result corresponding to the offense occurred within the country or, according to the perpetrator's expectation, should have occurred there. If the financial offense is not committed within the country, but within the customs territory of the European Union, and is discovered in the country, or if it is committed by an Austrian national abroad, or if it is committed against an authority of a tax administration acting abroad based on an international treaty, it shall be considered as committed within the country.
(3) No one may be extradited to a foreign country for a financial offense, and a punishment imposed by a foreign authority for such an offense may not be enforced in the country, unless otherwise provided in international treaties or federal laws.

[115] Art. 59 VAT Code:
(1) The administration is authorized to provide proof in accordance with common legal rules and by all means of common law, including witnesses and presumptions, but excluding oaths. Additionally, it may rely on the official reports of the Federal Public Service for Finance to demonstrate any violation or abusive practice of the provisions of this Code or its implementing regulations, as well as any fact that establishes or contributes to establishing the tax liability or a penalty. The official reports are considered valid evidence unless proven otherwise.
(2) Without prejudice to the other means of proof provided for in paragraph 1, the official designated by the King or the taxpayer has the right to request an expert assessment to determine the normal value of goods and services referred to in Article 36, paragraphs 1 and 2.
This right also applies to the goods referred to in Article 19, paragraph 2, point 1, when they concern the construction of a building.
The King establishes the procedure for the expert assessment. He determines the timeframe within which this procedure must be initiated and specifies the person responsible for bearing the costs.
[...]

[116] Art. 29 §§ 2-3 CCP

governed by the CCP's provisions for criminal investigations. **According to financial news reports, the VAT administration employs data mining to detect fraud, using both open-source data and taxpayer-submitted information** (e.g., VAT client listings, declarations, European Community sales lists, etc.) filed via the Ministry of Finance's platform, "MyMinfin." They also **cross-check data with other authorities, such as customs**. However, the specifics of how data mining and AI tools are utilized remain undisclosed.

The national expert emphasized the importance of differentiating between two forms of digitalization:

- digitalization of **tax returns** — converting analog documents into digital formats and streamlining business processes using digital technology;
- digitalization of **investigations** — using digital investigative tools to enhance detection and enforcement efforts.

Both areas **require improvement to effectively address EU-wide cyber VAT fraud.**

The VAT administration receives extensive taxpayer data via digital tax returns but lacks sufficient resources and tools to efficiently analyze this data to identify fraud patterns. While a digital platform exists, the process of collecting additional documentation during investigations remains cumbersome. Currently, businesses under investigation are asked to provide VAT-related documentation (e.g., records of their 20 largest clients) in diverse digital formats (e.g., screenshots, PDFs), complicating analysis. **Standardizing and streamlining this process would significantly enhance investigative efficiency together with the use of AI tools.**

The expert further advocated for **real-time identification tools for economic operators**, preferably based on blockchain technology. Such tools could enable VAT authorities and businesses to verify the legitimacy and activity status of economic operators during transactions (e.g., detecting shell companies or VAT identity theft). Existing systems like the VAT Information Exchange System (VIES) and the Central Databases of Undertakings lack real-time data and are therefore insufficient. A real-time EU-wide identification platform would benefit both authorities and businesses by reducing risks of fraud and joint fiscal liability.

The Belgian VAT administration is addressing some challenges by inspecting newly established e-commerce businesses within their first six months of operation to promote VAT compliance.

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§ 2. Officials of the General Administration of Taxation, the General Administration of Collection and Recovery, the General Administration of Property Documentation, the General Administration of Special Tax Inspection, or the competent official in cases of regional or local taxation may not, without the authorization of the general advisor to whom they report or an equivalent official, bring to the attention of the Public Prosecutor facts that are criminally punishable under tax laws and the regulations enacted for their enforcement.
§ 3. Without prejudice to the application of paragraph 2, the general advisor of the General Administration of Taxation, the General Administration of Collection and Recovery, the General Administration of Property Documentation, and the General Administration of Special Tax Inspection, or the official they designate, or the competent official in cases of regional or local taxation, shall report to the Public Prosecutor any facts that, upon examination, reveal serious indications of serious tax fraud, whether organized or not, constituting criminal offenses under tax laws and the regulations enacted for their enforcement.
The Public Prosecutor shall consult with the officials referred to in the first paragraph within one month of receiving the report. He may invite the competent police services to participate in this consultation. [7 The consultation may also take place at the initiative of the Public Prosecutor.]7
Based on the consultation, the Public Prosecutor decides which facts [7 ...]7 will lead to the initiation of public prosecution and informs the competent general advisor or the competent official in cases of regional or local taxation in writing, no later than three months after the initial report mentioned in the first paragraph.

However, this approach addresses only part of the broader need for real-time tools and **proactive measures**.

With regards to the **jurisdiction**, Belgium applies the **principle of territoriality**, supported by the "objective ubiquity theory" developed by the Court of Cassation. This theory grants Belgian criminal law jurisdiction if any material element of the offense occurs on Belgian territory, irrespective of the offender's nationality. Additionally, if several offenses are part of a broader criminal plan, the jurisdiction covers all related offenses if any material element occurs in Belgium. The intent behind the offense is irrelevant to establishing jurisdiction.

If the material element, or part of it, of one of these offenses can be located in Belgium, the whole set of offenses will be considered as falling within the jurisdiction of the Belgian courts.

The **principle of personality also applies**, granting Belgian jurisdiction if the offender is a Belgian citizen or resides habitually in Belgium. This principle extends to officials acting in their capacity under staff regulations at the time of the offense.

Key provisions include:

- Belgian nationals or residents who commit offenses abroad can be prosecuted if the act is punishable in the country where it occurred (Art. 6, § 1 PTCCP, as amended by the Act of 9 April 2024) [117];

[117] Article 6 § 1 PTCCP:
Subject to the application of Articles 7 to 11, any Belgian citizen or any person habitually residing in the territory of the Kingdom who, outside the territory of the Kingdom, has committed an act classified as a crime or offense under Belgian law may be prosecuted in Belgium if the act is punishable under the legislation of the country where it was committed.

- offenders cannot be prosecuted in Belgium if they have already been acquitted, served a sentence, or if enforcement is time-barred under the principle of ne bis in idem, except in cases of fair trial violations (Art. 14[118] and 14/1, para. 1 PTCPP[119]);

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[118] Article 14 PTCCP:
Any person who commits, outside the territory of the Kingdom, one of the offenses referred to in Articles 347bis, 393 to 397, and 475 of the Penal Code against a person who, at the time of the act, is Belgian, may be prosecuted in Belgium if the act is punishable under the legislation of the country where it was committed by a penalty with a maximum exceeding five years of deprivation of liberty.
If the suspect is not found in Belgium, prosecution, including the investigation, can only be initiated at the request of the Federal Prosecutor or the Public Prosecutor, who assesses any potential complaints.
When presented with a complaint under paragraph 2, the Federal Prosecutor or the Public Prosecutor shall instruct the investigating judge to proceed with the investigation of the complaint, unless:
1° The complaint is manifestly unfounded; or
2° The facts alleged in the complaint do not constitute one of the offenses referred to in Articles 347bis, 393 to 397, and 475 of the Penal Code; or
3° A valid public prosecution cannot arise from the complaint; or
4° From the specific circumstances of the case, it appears that, in the interest of proper administration of justice and in compliance with Belgium's international obligations, the case should be brought either before international jurisdictions, or the jurisdiction of the place where the acts were committed, or the jurisdiction of the state of which the perpetrator is a national or where the perpetrator can be located, provided that such jurisdiction meets the standards of independence, impartiality, and fairness, as can be inferred, in particular, from relevant international commitments binding Belgium and that state.
If the Federal Prosecutor or the Prosecutor General believes that one or more of the conditions referred to in paragraph 3, 1°, 2°, and 3°, are met, they shall request the chamber of indictments to declare, as appropriate, that there are no grounds for prosecution or that the public prosecution is inadmissible. Only the Federal Prosecutor or the Prosecutor General is heard.
If the chamber of indictments finds that none of the conditions referred to in paragraph 3, 1°, 2°, and 3°, are met, it shall designate the territorially competent investigating judge and specify the facts to be investigated.
Proceedings will then follow standard legal procedure.
The Federal Prosecutor or the Prosecutor General has the right to lodge an appeal in cassation against decisions rendered under paragraphs 4 and 5. In all cases, this appeal must be filed within fifteen days of the ruling.
In the case referred to in paragraph 3, 4°, the Federal Prosecutor or the Public Prosecutor shall close the case without further action and notify the Central Authority established by Article 2, fourth indent, of the Law of March 29, 2004, on cooperation with the International Criminal Court and international criminal tribunals. This decision to close the case is not subject to appeal.
[119] Article 14/1 PTCCP:
Any person who commits, outside the territory of the Kingdom, one of the offenses referred to in Book II, Title I ter, of the Penal Code against a person who, at the time of the acts, is a Belgian citizen or against a Belgian institution, may be prosecuted in Belgium.
If the suspect is not found in Belgium, prosecution, including the investigation, can only be initiated at the request of the Federal Prosecutor or the Public Prosecutor, who evaluates any potential complaints.
When presented with a complaint under paragraph 2, the Federal Prosecutor or the Public Prosecutor shall instruct the investigating judge to process the complaint unless:
1° The complaint is manifestly unfounded; or
2° The facts alleged in the complaint do not correspond to a classification of the offenses referred to in Book II, Title I ter, of the Penal Code; or
3° A valid public prosecution cannot arise from the complaint; or
4° From the specific circumstances of the case, it appears that, in the interest of proper administration of justice and in compliance with Belgium's international obligations, the case should be brought either before international jurisdictions, the jurisdiction of the place where the acts were committed, or the jurisdiction of the state of which the perpetrator is a national or where the perpetrator can be located, provided that such jurisdiction meets the standards of independence, impartiality, and fairness, as can be inferred, in particular, from relevant international commitments binding Belgium and that state.
If the Federal Prosecutor or the Prosecutor General believes that one or more of the conditions referred to in paragraph 3, 1°, 2°, and 3°, are met, they shall request the chamber of indictments to declare, as

- if the offense is committed against a foreigner, the prosecution requires the foreign victim to file a complaint or for the foreign state to notify Belgian authorities (Art. 6, § 2 PTCCP[120]). It must be noticed that, in VAT offenses, the victim is typically a state, which is unlikely to defer jurisdiction to Belgium.

Additionally, prosecution is only possible if the offender is found in Belgium (Art. 6, § 3 PTCCP[121]). Co-perpetrators and accomplices can also be prosecuted alongside or separately from the main offender (Art. 14/11 PTCCP[122]).

Belgium prosecutes offenses committed for the benefit of legal entities established within its territory. Such cases fall under **corporate criminal liability** (Art. 5[123], para. 1 Criminal Code), provided the required mens rea can be established. The recent amendment to Art. 7, § 1 PTCCP[124] ensures that even if all elements cannot be proven for the legal entity, a natural person committing an offense for its benefit can still be prosecuted. This, too, requires the offender to be located in Belgium (Art. 7, § 2 PTCCP[125]).

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appropriate, that there are no grounds for prosecution or that the public prosecution is inadmissible. Only the Federal Prosecutor or the Prosecutor General is heard.
If the chamber of indictments finds that none of the conditions referred to in paragraph 3, 1°, 2°, and 3°, are met, it shall designate the territorially competent investigating judge and specify the facts to be investigated. If the request referred to in paragraph 4 comes from the Federal Prosecutor, it shall refer the case to the dean of investigating judges mentioned in Article 47duodecies, § 3, of the Code of Criminal Procedure.
Proceedings will then follow standard legal procedure.
The Federal Prosecutor or the Prosecutor General has the right to lodge an appeal in cassation against decisions rendered under paragraphs 4 and 5. In all cases, this appeal must be filed within fifteen days of the ruling.
In the case referred to in paragraph 3, 4°, the Federal Prosecutor or the Public Prosecutor shall close the case without further action and notify their decision to the Central Authority established under Article 2, fourth indent, of the Law of March 29, 2004, concerning cooperation with the International Criminal Court and international criminal tribunals. This decision to close the case is not subject to appeal.

[120] Article 6 § 2 PTCCP:
If the offense was committed against a foreigner, prosecution may only take place upon the request of the public prosecutor and must also be preceded by a complaint from the offended foreigner or their family, or by an official notification given to the Belgian authorities by the authorities of the country where the offense was committed.
In the event that the offense was committed, during wartime, against a national of a country allied with Belgium within the meaning of Article 117, paragraph 2, of the Penal Code, the official notification may also be given by the authorities of the country of which the foreigner is or was a national.

[121] Article 6 § 3 PTCCP:
The prosecution of a Belgian will only take place if they are found in Belgium, except when the offense was committed during wartime or if it concerns an offense referred to in Articles 347bis, 393 to 397, and 475 of the Penal Code.
The prosecution of a foreigner will only take place if they are found in Belgium, except if it concerns an offense referred to in Articles 347bis, 393 to 397, and 475 of the Penal Code, or, when the offense was committed during wartime, if they are found in enemy territory or if their extradition can be obtained.

[122] Article 14/11 PTCCP:
The foreigner who is a co-perpetrator or accomplice of a crime committed outside the territory of the Kingdom by a Belgian may be prosecuted in Belgium, jointly with the suspected Belgian or after the conviction of the latter.

[123] See footnote no. 18.

[124] Article 7 § 1 PTCCP:
Any person who commits an offense on behalf of a legal entity whose registered office is located on Belgian territory may be prosecuted in Belgium.

[125] Article 7 § 2 PTCCP:
The prosecution of a Belgian national will only take place if they are found in Belgium, unless the offense was committed during wartime.

Finally, Belgium **complies with Article 12 of the PIF Directive**, which mandates a minimum **five-year limitation period for VAT fraud**. The Act of 9 April 2024 extended the limitation period for misdemeanors to **10 years** (from five). Under the new law, specifically Article 21[126], the limitation period applies only during the pretrial stage. Once the case is formally brought to trial, the limitation period stops, allowing proceedings to continue without time-barred risks. The only requirement is adherence to reasonable trial timelines.

Bulgaria

According to Bulgarian criminal procedure, a **full range of investigative tools is employed in the fight against VAT fraud**. These include suspect and witness interrogations, inspections, expert analyses, searches, and seizures, alongside the use of special investigative techniques.

The most frequently used and effective tools include written evidence of an authentic nature — whether in paper or electronic format — that complies with regulatory requirements. Examples include documents certifying cash flows, tender contracts, and acts of acceptance. Additionally, interrogations of experts, employees, and consultants as witnesses, as well as searches and seizures, particularly of computer data and configurations (including on the premises of consultancy companies), play a crucial role in uncovering VAT fraud schemes.

According to the national expert, while these tools are effective, there are areas where significant improvements could be made. These include:

- **enhanced training** for specialized staff to ensure they possess the necessary skills and knowledge to handle increasingly sophisticated fraud cases.
- **establishing new specialized structures** to focus exclusively on combating VAT fraud and improving overall efficiency.
- **strengthening international cooperation** and collaboration with other competent authorities, recognizing that VAT fraud often involves cross-border elements.
- **incorporating AI technologies** to analyze complex datasets, detect patterns, and identify fraudulent activities more effectively.
- **raising awareness among stakeholders**, including businesses and economic operators, to enhance vigilance and compliance in this area.

According to the national expert, by addressing these priorities, Bulgaria can significantly strengthen its capacity to combat VAT fraud and improve the overall effectiveness of its investigative efforts.
In Bulgaria, both the **principles of territoriality and personality** are applied in determining **jurisdiction**. This means that Bulgarian criminal law applies to crimes committed on Bulgarian territory, as well as to crimes committed by Bulgarian citizens abroad, provided this is stipulated in an international agreement to which Bulgaria is a party.

The prosecution of a foreign national will only take place if they are found in Belgium, or, if the offense was committed during wartime, if they are found in an enemy country or if their extradition can be obtained.
[126] Article 21 § 1 PTCCP:
Except in the cases referred to in Article 21bis, criminal proceedings shall be time-barred, counting from the day on which the offence was committed, by the lapse of 30 years, 20 years, 15 years, 10 years or one year, depending on whether the offence constitutes a crime punishable by life imprisonment, a crime punishable by more than 20 years to 30 years of imprisonment, a crime punishable by more than 5 years to 20 years of imprisonment or less, a misdemeanor or a petty offence.
[...].

Under Bulgarian law, no citizen of the Republic of Bulgaria can be extradited to another state or an international court for prosecution unless such extradition is explicitly provided for in an international agreement that has been ratified, published, and entered into force for Bulgaria.

A crime also falls under Bulgarian jurisdiction **if it affects the interests of the Republic of Bulgaria or Bulgarian citizens**. Additionally, crimes committed abroad by foreign citizens may fall under Bulgarian jurisdiction if stipulated in an applicable international agreement. As a party to the European Convention on the Transfer of Proceedings in Criminal Matters, Bulgaria also exercises subsidiary jurisdiction in the cases provided for under Article 2 of the Convention. This jurisdiction is activated only upon a formal request for proceedings from another State Party to the Convention and when the criminal law of that State applies to the offense.

Bulgaria **complies with the requirements of Article 12 of the PIF Directive**, which specifies minimum limitation periods for criminal offenses involving VAT fraud. Under Bulgarian law, the limitation period for crimes against the tax system, including VAT fraud, **depends on the severity of the offense and the maximum penalty prescribed**.

The Bulgarian Criminal Code provides for varying penalties for different types of tax (VAT) fraud, with imprisonment ranging from 1 year up to 6, 8, or 10 years in the most serious cases [see

Articles 253[127] and following of the Criminal Code]. These varying penalties determine the corresponding limitation periods[128].

Croatia

In Croatia, to fight against VAT fraud, it is possible to **use several investigative tools and measures**. Some of the key tools and measures include:

- **Cooperation with the EPPO and Europol**: Croatia is cooperating with the European Public Prosecutor's Office (EPPO) and Europol in the fight against complex VAT fraud, including

[127] Article 253 C.C.:
(Amended, SG No. 28/1982, repealed, SG No. 10/1993, new, SG No. 62/1997)(1) (Amended, SG No. 85/1998, SG No. 26/2004, supplemented, SG No. 75/2006)
The one who concludes a financial operation or property transaction or conceals the origin, location, movement or the actual rights in the property, which is known or assumed to be acquired through crime or another act that is dangerous for the public, shall be punished for money laundering by imprisonment from one to six years and a fine from BGN three thousand to five thousand.
(2) (New, SG No. 26/2004, supplemented, SG No. 75/2006) The punishment under paragraph 1 shall also be imposed on the one who acquires, receives, holds, uses, transforms or assists, in any way whatsoever, the transformation of property, which is known or assumed, as of its receipt, to have been acquired through crime or another act that is dangerous for the public.
(3) (Renumbered from Paragraph 2, supplemented, SG No. 26/2004) The punishment shall be imprisonment for one to eight years and a fine from BGN five thousand to twenty thousand, if the act under paras 1 and 2 has been
committed:
1. (amended, SG No. 26/2004) by two or more individuals, who have reached preliminary agreement, or by an individual who acts on the orders of or executes a decision of an organised criminal groups;
2. two or more times.
3. by an official within the sphere of his office.
4. (new, SG No. 26/2004) through opening or maintaining an account with a financial institution, under a false name or the name of an individual who has given consent to this effect.
(4) (New, SG No. 21/2000, renumbered from Paragraph 3, supplemented, SG No. 26/2004, amended, SG No. 75/2006)
The punishment shall be deprivation of liberty from three to twelve years and a fine from BGN 20,000 to BGN 200,000 where the act under Paragraphs (1) and (2) has been committed by the use of funds or property
which the perpetrator knew or supposed to have been acquired through a serious crime of
intent.
(5) (New, SG No. 85/1998, renumbered from Paragraph 3, SG No. 21/2000, renumbered from Paragraph 4, amended, SG No. 26/2004, SG No. 75/2006) Where the funds or property are in extremely large amounts and the case is extremely grave, the punishment shall be imprisonment for five to fifteen years and a fine from BGN 10,000 to BGN 30,000, and the court shall suspend the rights of the guilty person under Items 6 and 7 of Article 37 (1).
(6) (New, SG No. 85/1998, renumbered from Paragraph 4, SG No. 21/2000, renumbered from Paragraph 5, amended, SG No. 26/2004) The object of crime or the property into which it has been transformed shall be forfeited to the benefit of the state, and where absent or alienated, its equivalent shall be awarded.
(7) (New, SG No. 26/2004) Provisions of paras 1 through 6 shall also apply where the crime through which property has been acquired falls outside the criminal jurisdiction of the Republic of Bulgaria

[128] Article 80 C.C.:
(1) Criminal prosecution shall be excluded by prescription where it has not been instigated in the course of:
[...]
3. 10 years with respect to acts punishable by imprisonment for more than 3 years.
4. 5 years in respect of acts punishable by imprisonment for more than 1 year, and
5. 3 years in respect of all remaining cases.
[...]

carousel fraud. These institutions enable the rapid exchange of information and the coordination of transnational investigations.

- **Eurojust**: Eurojust provides support in judicial cooperation between EU Member States, allowing for more effective investigative measures and coordination between different national authorities. Through Eurojust, Croatia benefits from enhanced coordination and the implementation of effective investigative measures such as Joint Investigation Teams (JITs) and European Investigation Orders, which enable seamless collaboration among national authorities.
- **International cooperation**: Croatia leverages international mechanisms like the European Arrest Warrant and the European Investigation Order to ensure close collaboration with other EU Member States in tackling VAT fraud. These tools enable efficient cross-border investigations and prosecution of offenders.
- **Access to Tax Administration Data**: the Croatian Tax Administration has access to extensive databases containing financial transaction records, bank account details, and tax return information. This access facilitates the identification of suspicious activities and connected entities. Additionally, Croatia benefits from data shared by other EU Member States and third countries through bilateral treaties and international agreements, further enhancing its ability to combat fraud.

According to the expert, the investigative tools and measures used by Croatian law enforcement authorities can be effectively employed in investigating cyber VAT fraud. These tools include:

- **Collaboration with Europol and EPPO**: Croatian authorities work closely with Europol and the European Public Prosecutor's Office (EPPO) to combat complex VAT fraud schemes, including those involving cyber elements. This collaboration facilitates the exchange of intelligence and coordinated international operations.
- **Special investigative measures**: the use of special investigative measures such as wiretapping, surveillance, and the monitoring of financial transactions is crucial in detecting and proving cyber VAT fraud. These measures allow authorities to gather evidence on electronic communications and financial flows that are often involved in cyber-related fraud.
- **Advanced data analysis**: authorities utilize sophisticated data analysis tools to track and analyze large volumes of electronic data. This includes tracing digital footprints and analyzing patterns in financial transactions that indicate fraudulent activities.
- **Access to international databases**: through international cooperation, Croatian authorities have access to various databases and can cross-reference information with other EU member states. This helps in identifying and tracking cross-border fraud networks.
- **Cyber forensics**: cyber forensics involves the collection, preservation, analysis, and presentation of digital evidence. This is essential in investigating cyber VAT fraud, where digital evidence plays a key role.
- **Electronic data requests**: Croatian authorities can issue electronic data requests to service providers to obtain records of electronic communications and transactions that are relevant to the investigation.
- **Public-private partnerships**: collaborations with private sector entities such as banks and internet service providers are crucial. These partnerships enable quicker detection and response to suspicious activities related to cyber VAT fraud. These investigative tools and measures are designed to be flexible and comprehensive, allowing Croatian law enforcement to effectively tackle both traditional and cyber-related VAT fraud.

According to the national expert, Croatia could strengthen its fight against VAT fraud by introducing several key measures aimed at improving the detection, investigation, and prosecution of such cases.

These **recommendations** include:

- **Enhanced data sharing and integration**: establishing a centralized database that consolidates information from tax authorities, customs, financial institutions, and law enforcement agencies would significantly enhance real-time data sharing and analysis. Such integration would improve collaboration among agencies and enable faster identification of fraudulent activities.
- **Implementation of advanced data analytics and AI tools**: leveraging data analytics and artificial intelligence (AI) tools can help detect anomalies and suspicious patterns across large datasets. These technologies would enable authorities to proactively identify potential fraud schemes and act swiftly to prevent losses.
- **Amendments to national legislation**: strengthening national laws by introducing stricter penalties for VAT fraud and related offenses could serve as a powerful deterrent. Harsher sanctions would signal a zero-tolerance approach and discourage individuals or entities from engaging in fraudulent practices.
- **Specialized training** for cyber security experts and investigators.
- **Promotion of advanced technology in tax reporting**: mandating the use of modern technology for tax reporting and compliance could significantly reduce opportunities for VAT fraud. Examples of such measures include:
    - **real-time fiscalization of B2B invoices**: ensuring that all business-to-business transactions are recorded and reported in real-time to tax authorities, minimizing the risk of unreported transactions;
    - **automated creation of tax records**: introducing systems for the automated generation of the Book of Sales and Book of Purchases for all taxpayers would enhance transparency and simplify compliance monitoring.

By adopting these measures, Croatia could improve its overall effectiveness in combating VAT fraud, ensuring stronger prevention, faster detection, and more successful prosecution of offenders.

Regarding **jurisdiction**, Croatia adheres to both the **principle of territoriality** and the **principle of personality**, which also extends to legal persons. This ensures that Croatian courts have jurisdiction over offenses committed within the territory, as well as offenses committed abroad by Croatian citizens or legal entities, provided such jurisdiction is established under national or international law. Criminal proceedings will be initiated only if the perpetrator is located on the territory of the Republic of Croatia.

Croatia is fully **compliant with Article 12 of the PIF Directive**. Like many other EU Member States (Austria, Belgium, Cyprus, Czech Republic, Hungary, Ireland, Poland, Romania, Sweden, and The Netherlands), Croatia has adopted legislation that ensures penalties for VAT fraud can be enforced for at least five years from the date of the final conviction. Specifically, Croatian legislation provides for this enforcement period in two key scenarios:

- **when the penalty imposed is more than one year of imprisonment.**
- **when the penalty relates to a criminal offense punishable by a maximum sanction of at least four years of imprisonment.**

Cyprus

The national expert identified several tools and key elements that Cyprus can leverage in the fight against VAT fraud:

- Department Investigations Economic;
- Fraud Department of the Police;
- Local FIU (MOKAS - Monetary Unit and Financial Crimes Unit). It works closely with other domestic agencies, as well as international organizations like **Europol** and **Eurojust**, to tackle complex financial crimes that have cross-border implications;
- General Attorney.

When talking about cyber VAT fraud, it should be noted that Cyprus is the only European country to have specific substantive legislation for it. At the same time, a **dedicated Unit has also been established,** the Digital Fraud Investigation Unit from the Police.

Regarding the suggestions to improve the fight against VAT fraud and cyber VAT fraud, the national expert believes it is necessary to **invest in**:

- investigator training;
- enhanced collaboration with EU colleagues.

During the discussion, the expert emphasized the **upcoming mandate for e-invoicing in the EU** (2030 for B2B, 2027 for B2G) and highlighted the **potential of AI for detecting fraud**. The expert proposed that the EU develop unified digital tools to prevent fragmentation of national efforts; while AI could significantly streamline the detection process, open-source tools might pose security risks unless they are developed internally by the EU.

When analyzing the issue of **jurisdiction**, Cyprus adheres to the **principle of personality**, which includes nationality, habitual residence, Cypriot public officials, and also Cypriot legal entities. For proceedings to be initiated in the case of a Cypriot citizen's liability, it is essential that the prosecution can only be initiated after the victim files a report in the jurisdiction where the criminal offense occurred.

Regarding the **statute of limitations**, Cyprus is one of the few cases of **non-compliance with the Directive**, as it does not provide for minimum 5 years or even 3 years. It should be noted, however, that despite this, according to the EU VAT Gap report by the European Commission, Cyprus is the European country with the smallest VAT gap in 2022, standing at -0.7%[129].

Czech Republic

With reference to the **tools for fighting VAT fraud**, starting from the **administrative control**, the national expert explained that the **controls' procedure for cross-border transactions** in the Czech Republic, as in other EU Member States, is the common EU system VIES.

Each VAT payer is required to submit a monthly VAT Control Statement, which details B2B transactions, including the VAT identification number of the business partner, the value of the supply, the date of supply, and the invoice number. The analytical software used by the financial

[129] European Commission: Directorate-General for Taxation and Customs Union, Poniatowski, G., Bonch-Osmolovskiy, M., Śmietanka, A. and Pechcińska, A., "VAT gap in the EU – Report 2022", Publications Office of the European Union, 2022,retrieved from https://data.europa.eu/doi/10.2778/109823.

administration identifies discrepancies between reported transactions, enabling tax authorities to uncover carousel fraud or situations where a VAT payer claims input VAT that has not been remitted by their supplier. The **ADIS software** system is employed by the financial administration to detect long-term discrepancies in the VAT liabilities reported by VAT payers.

If discrepancies are identified, VAT payers are questioned to understand why their reported VAT deviates for a particular taxable period, and whether VAT fraud was involved.

One investigative approach used by tax administrators is **local investigation**. Additionally, there is a procedure known as the "**doubt procedure**", which is a fast and flexible method relying on reciprocal communication between the tax administrator and the taxpayer.

In 2022, the primary reasons for applying the doubt procedure were the unreliability of tax returns as assessed by the ADIS information system and the need to investigate VAT chain fraud. Out of nearly 10,000 doubt procedures initiated, more than 60% focused on VAT control, leading to a reduction in excessive VAT deductions of CZK 393 million [EUR 16.5 million] and an increase in tax liabilities by CZK 522 million approximately [EUR 21,924].

Tax audits are another common tool for investigating VAT fraud. In 2022, tax audits resulted in an additional VAT assessment totaling CZK 4,877 million [EUR 201,030,503]. The main reasons for initiating VAT audits included investigations into entities involved in VAT chain fraud. Frequent audit findings also involved unauthorized claims for tax deductions (violations of Section 72 of the VAT Act), failure to declare taxable transactions, verification of advance payments, and the correctness of tax rates. Data on VAT assessments from the doubt procedures and tax audits is drawn from the Annual Report on the Activities of the Financial Administration for 2022[130].

Regarding **criminal investigations**, it is important to highlight the **lack of tax or financial experts** within the police force.

The expert highlighted that in many criminal proceedings, the same administrative data are used, even though the focus and objectives of these two types of proceedings are completely different. Tax proceedings are based on evidence provided by the taxpayer, and if the taxpayer fails to provide such evidence, the tax administration can close the case to their disadvantage. However, this finding typically does not indicate the commission of a criminal offense. Criminal proceedings, on the other hand, rely on evidence presented by the police or prosecution, which must prove that a criminal offense has been committed. To address this, the police have established a **specialized national unit for investigating high-level criminal offenses related to tax matters**.

On a different note, there are **currently no specific tools in place for investigating cyber VAT fraud**. However, existing investigative tools can still be utilized.

Additionally, a **new regulation**, effective from January 1, 2024, **requires payment service providers to report specified cross-border money transfers**. This provision has been implemented in line with EU Directive 2020/284 (as regards introducing certain requirements for payment service providers).

Finally, the expert suggested that **banks reporting payment data from e-commerce transactions could play a significant role in combating cyber VAT fraud**. However, he raised concerns about whether this data is being processed and analyzed appropriately to effectively identify and address fraudulent activities.

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[130]www.financnisprava.cz/assets/cs/prilohy/fs-financni-sprava cr/Vyrocni_zprava_o_cinnosti_FS_CR_za_rok_2022.pdf.

As regards the **jurisdiction**, the Czech Republic applies both the **principle of territoriality** and the **principle of personality**, which also extends to legal persons, without conditions to start the criminal proceeding.

The Czech Republic is **compliant with Article 12 PIF Directive**. The relevant legal provision is Article 34 Criminal Code[131]. CR has adopted legislation that ensures penalties for VAT fraud can be enforced for at least five years from the date of the final conviction when the penalty is more than 1 year and for a criminal offense that is punishable by a maximum sanction of at least four years of imprisonment.

Denmark

In Denmark, the VAT compliance gap was estimated in 2022 at €3,360 million or 8.6% of the VAT total tax liability (VTTL), an increase of 4.1 percentage points compared to 2021.

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[131] Article 34 C.C.:
Limitation period
(1) Criminal liability for an offence is extinguished on the expiry of the limitation period, which is
a) thirty years if the offence is an offence for which the Criminal Law permits the imposition of an exceptional penalty, and an offence committed in the preparation or approval of a privatization project under any other provision of law,
b) fifteen years, if the upper limit of the penalty is at least ten years of imprisonment,
c) ten years, if the upper limit of the penalty of imprisonment is at least five years,
d) five years, if the upper limit of the penalty of imprisonment is at least three years,
e) three years for other offences.
(2) The limitation period shall begin to run for offences in which effect is a feature or in which effect is a feature of a qualifying offence from the time when such effect occurs; for other offences the limitation period shall begin to run from the end of the conduct. For a participant, the limitation period begins to run from the end of the act of the principal offender.
(3) The statute of limitations does not include
a) the period during which the offender could not be brought to trial because of a legal impediment,
b) the period during which the prosecution was suspended,
c) the period during which the victim of a crime of grievous bodily harm involving genital mutilation or sterilization (§ 145), unlawful termination of pregnancy without the consent of the pregnant woman (§ 159), trafficking in human beings (§ 168), introduction committed with intent to force another to marry (§ 172), extortion (§ 175) or oppression (§ 177) committed with intent to coerce another to marry or to tolerate an act tending to cause grievous bodily harm consisting of genital mutilation or any of the offences listed in Chapter Three of the Special Part of this Act on sexual offences against human dignity and/or the offence of enticement to sexual intercourse (§ 202) was under the age of eighteen,
d) probationary period of a conditional discontinuance of prosecution or a conditional deferral of the filing of a petition for punishment,
e) the period during which the offender could not be prosecuted in the Czech Republic, if the offence is an offence the criminality of which is assessed under the law of the Czech Republic on the basis of § 8(1),
f) the period from the making of the detention order until it is revoked or expires for any other reason,
g) the period during which certain acts of criminal proceedings have been temporarily dispensed with under the International Judicial Cooperation in Criminal Matters Act,
h) the period during which a criminal prosecution has been temporarily suspended.
(4) The limitation period is interrupted
a) the initiation of a criminal prosecution for the offence for which the limitation period is in question, as well as the subsequent taking into custody, the issuing of an arrest warrant, the lodging of a request for the arrest of a person from a foreign State, the issuing of a European Arrest Warrant, the the filing of an indictment, an application for the approval of a plea agreement, an application for punishment, the pronouncement of a conviction for that offence or the service of a warrant for that offence on the accused, or
b) if, within the limitation period, the offender has committed a new offence for which the Penal Law provides a penalty equal to or more severe.
(5) The interruption of the limitation period starts a new limitation period.

Denmark estimates that fiscal and VAT fraud generate the largest proceeds of crime in its country[132].

The national expert explained that in Denmark, the tax authority has broad access to any company at any time, as outlined in Article 74 of the Danish VAT Code. **In 2024, Denmark introduced several amendments to the Danish VAT Act to strengthen its efforts against tax** fraud. Key changes include a notification system designed to alert taxable persons who have purchased goods with unpaid VAT. Additionally, taxable persons are now required to declare VAT-exempt output transactions and report their input VAT ratio in an annual declaration.

In Denmark, the Money Laundering Secretariat has extensive **access to financial intelligence** and other information. These data can be used also against VAT fraud.

At the same time, a robust **digital reporting system**, which allows tax authorities to monitor and analyze VAT transactions, was implemented.

Danish authorities have organized much of their work related to financial crime in **specialized task forces**, which collaborate closely with the Financial Intelligence Unit: for new types of VAT fraud, for instance, a task force was settled with participants from the customs and tax authorities and the Public Prosecutor for Serious Economic Crime.

Although Denmark does not have specific tools for combating EU cyber VAT fraud, the expert emphasized that **digital reporting** and a **more expedited process** would be highly beneficial in addressing these issues.

Regarding Article 12 of the PIF Directive, Denmark is compliant and applies both the **principle of territoriality** and the **principle of personality**, which also extends to legal persons, without conditions to start the criminal proceeding.

The **limitation period** is at least 5 years for the criminal offense of VAT fraud, as provided for in Article 12 of the PIF Directive.

Estonia

Although no responses were collected from the questionnaire, information about the investigative tools used in Estonia can be reported thanks to the research conducted by the CSSC.

Estonia ranked **9th among the EU Member States**, with a VAT compliance gap estimated at €152 million or 4.4% of the VAT total tax liability (VTTL) in 2022, and an increase of 2.9 percentage points compared to 2021[133].

In Estonia, the **tax administration conducts investigations, directed by a prosecutor/examining judge.**

Estonian Tax and Customs Board uses **big data and data analytics technology** for **fraud detection** and **evaluation purposes**. This system allows to identifying risk coefficient for each case with the overall objective of increasing tax compliance and preventig frauds. For this purpose, EMTA

[132] Faft, "Anti-money laundering and counter-terrorist financing measures, Denmark Mutual Evaluation Report 2017" retrieved from: https://www.fatf-gafi.org/content/dam/fatf-gafi/mer/MER-Denmark-2017.pdf.

[133] See footnote no 125.

analyses a large amount of structured data coming from government sources, mainly such as business registers and tax declarations[134].

It is possible to use also the "**traditional" investigative tools**, for instance seizures and confiscation, inspections, and audit.

The **jurisdictional criterion** is based mainly on the **principle of personality**.

Estonia is **compliant with Article 12 of the Directive**: the limitation period is 6 years for VAT fraud and 5 for tax evasion. As a general rule, the statute of limitations is three years.

Finland

Finland is **highly proactive in both preventing and combating VAT fraud**, achieving one of the lowest VAT gaps in Europe.

The country **works closely with Europol, Eurojust, and other relevant authorities to strengthen its efforts**. There is **extensive information-sharing** among these authorities, allowing for **cross-checks** and the consolidation of data from various sources. Finland utilizes a range of traditional investigative tools, including **inspections, seizures, and audits**. Moreover, Finland has established a comprehensive legal framework for asset recovery, including effective mechanisms to facilitate asset confiscation decisions.

Regarding **jurisdiction**, Finland applies both the **principles of territoriality and personality**.

For the latter, there are **no specific conditions required to establish jurisdiction**.

Finland **complies with Article 12** of the PIF Directive, ensuring a minimum limitation period of **5 years**. A penalty for VAT fraud can be enforced for at least five years from the date of the final conviction if the penalty involves more than one year of imprisonment, or if the offense carries a maximum penalty of at least four years of imprisonment.

France

The French national expert highlighted several key investigative tools and measures that are **effectively employed to combat VAT fraud**:

- customs police investigation;
- random treasury tax audits;
- data analysis and technology (Tracfin);
- international cooperation (Europol alerts);
- inquiries and interrogations;
- surveillance and monitoring and document analysis.

These instruments can also be applied to combat cyber VAT fraud. Given the unique aspects of cyber VAT fraud, it is crucial to incorporate additional specialized tools and techniques to effectively address these challenges:

- electronic transaction monitoring;

[134] European Commission, "Study on "Data Analytics for Member States and Citizens", 2020, retrieved from https://interoperable-europe.ec.europa.eu/collection/study-data-analytics-member-states-and-citizens.

- digital data analysis;
- digital forensic analysis;
- online activity streaming;
- technological business cooperation;
- metadata analysis.

According to the national expert, the French Criminal Procedure **could be improved by adapting the directives, as well as, by updating the legislation, by creating specific articles in the Criminal Code that would deal more specifically with crimes against the Public Administration**. Therefore, it is necessary to clearly define the crime, and its penalties and for these to be more effective, thus avoiding an increase in the recurrence of crimes linked to any type of VAT fraud or cyber VAT fraud.

In France, the **jurisdictional criterion** primarily follows the principle of **territoriality**. According to Article 11, paragraph 4 of the PIF Directive, **when the principle of personality is applied, certain conditions are excluded**. Specifically, in France, the prosecution **can only be initiated if there has been a report from the state where the criminal offense was committed**.

France does **not fully comply with Article 12 of the PIF Directive** regarding the limitation period, as its statute of limitations is **shorter than the required 5 years, and in some cases, even shorter than 3 years.**

Germany

To ensure that activities comply with their value-added tax (VAT) obligations, the tax office can **conduct a surprise VAT inspection**.

In addition, other "traditional" investigative tools are applicable:

- **inspections and seizures**;
- **fraud risk assessments;**
- significant **international cooperation**.

In Germany, the **Federal Cartel Office can not wiretap or conduct electronic surveillance**.

Telecommunications surveillance may only be ordered by a court upon the public prosecution office's application, and only in cases involving a bid-rigging offense under Article 298 of the Criminal Code[135].

[135] Section 298 C.C.
Collusive tendering
(1) Whoever, in connection with an invitation to tender relating to goods or services, makes an offer based on an unlawful agreement whose purpose is to cause the organiser to accept a specific offer incurs a penalty of imprisonment for a term not exceeding five years or a fine.
(2) The award of a contract by direct agreement following a prior call for competition is equivalent to an invitation to tender within the meaning of subsection (1).
(3) Whoever voluntarily prevents the organiser from accepting the offer or from providing a service does not incur the penalty specified in subsection (1), also in conjunction with subsection (2). If the offer is not accepted or the organiser's service is not rendered without any action on the offender's part, no penalty is incurred if the offender makes voluntary and earnest efforts to prevent the offer being accepted or the service being rendered.

Germany includes in its **jurisdiction** every case of VAT evasion, regardless of where the offense was committed and the identity of the perpetrator, according to Section 370 (6) AO[136]. Germany follows both the principle of territoriality and personality.

With regard to the **limitation period**, Germany is **compliant** with Article 12 of the PIF Directive, because the provisions are:

- 5 years in case of involuntary tax evasion;
- 10 years in case of voluntary tax evasion.

In Germany, indeed, VAT fraud is prosecuted **for both intent and negligence.**

Greece

According to the national expert, in the fight against VAT fraud, the **Financial Police Directorate** plays a pivotal role. As part of its collaboration with European organizations, executives from the **Financial Police Directorate of the Hellenic Police** have been appointed as experts in various **EUROPOL Analysis Projects**[137].

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[136] Abgabenordnung (AO) § 370
Tax Evasion
(1) Whoever
1. provides incorrect or incomplete information to the tax authorities or other authorities about tax-relevant facts,
2. intentionally omits to inform the tax authorities about tax-relevant facts, or
3. intentionally fails to use tax stamps or tax stamps improperly and thereby reduces taxes or obtains unjustified tax advantages for themselves or others, shall be punished by imprisonment of up to five years or a fine.

(2) Attempted offenses are punishable.
(3) In particularly serious cases, the punishment is imprisonment for six months to ten years. A particularly serious case is typically present if the offender
1. reduces taxes or obtains unjustified tax advantages to a large extent,
2. abuses their powers or position as a public official or European public official (as per § 11 paragraph 1 no. 2a of the Penal Code),
3. exploits the assistance of a public official or European public official (§ 11 paragraph 1 no. 2a of the Penal Code) who abuses their powers or position,
4. continues to reduce taxes or obtain unjustified tax advantages using forged or falsified documents,
5. as a member of a gang that has formed to continuously commit offenses under paragraph 1, reduces sales or consumption taxes or obtains unjustified sales or consumption tax advantages, or
6. uses a third-country company as defined in § 138 paragraph 3, which they alone or together with related persons, as per § 1 paragraph 2 of the Foreign Tax Act, can exert direct or indirect control over, to conceal tax-relevant facts and thus continuously reduce taxes or obtain unjustified tax advantages.

(4) Taxes are considered reduced when they are not, not fully, or not timely assessed; this also applies when the tax is provisionally or subject to review. Tax advantages include tax refunds; unjustified tax advantages are those that are granted or left unjustified. The conditions of sentences 1 and 2 are also met if the tax related to the offense could have been reduced or the tax advantage could have been claimed for other reasons.
(5) The offense can also be committed concerning goods whose import, export, or transit is prohibited.
(6) Paragraphs 1 through 5 also apply to cases involving import or export duties administered by another EU member state or duties that belong to a member state of the European Free Trade Association or an associated state. The same applies to cases involving VAT or harmonized excise duties under Article 1 paragraph 1 of Council Directive 2008/118/EC of December 16, 2008, on the general system of excise duties and the repeal of Directive 92/12/EEC, administered by another EU member state.
(7) Paragraphs 1 through 6 apply regardless of the law of the place where the offense occurred, also to offenses committed outside the scope of this law.

[137] (as for instance, AWF S.O.C./A.P. MTIC, AWF S.O.C./A.P. SUSTRANS and AWF S.O.C./A.P. SMOKE).

The **Financial Police Directorate** has adopted an **intelligence-led policing (ILP) approach**, focusing on actions aimed at prosecuting crimes that directly impact state revenue. These include offenses arising from **tax and customs legislation** as well as **violations of insurance laws**.

To fulfill its mission, the Directorate's core tasks involve the **collection, analysis, and processing of information**, both for **operational use** and to **derive strategic forensic insights**. To support this, an **information database** is maintained.

A key component in achieving these objectives is the **Information System (IS)**, developed by specialized personnel from the **Information Management and Strategy Departments**. This system comprises the **Information Management System (IMS)** software and the necessary **technological infrastructure**. The collected data undergoes **evaluation, parameterization, and analysis** at both **strategic and operational levels**.

Additionally, the **Financial Police Directorate** has **direct access to information systems and electronic applications** of other agencies, enabling authorized personnel to enhance investigative efforts.

The Directorate conducts **systematic and targeted audits** based on a **comprehensive risk analysis process**. This involves assessing the current landscape and categorizing collected information using **measurable quantitative indicators**. Open-source research, including Internet and publication analysis, further contributes to identifying trends and threats associated with financial crimes.

Specially trained **business analysts** play a critical role in processing incoming intelligence using the **4x4 evaluation system**. This ensures that data is effectively parameterized for integration into **structured forensic analysis databases**, including **MS Access** and **IBM i2**.

The same tools are utilized for investigating **cyber VAT fraud**. A **special control procedure** ensures **unhindered access** to all types of **documents, records, and other relevant materials**, facilitating the work of audit bodies and authorities responsible for detecting and investigating **tax evasion and VAT fraud**.

Specifically, under **Article 15 of Law 4144/2013**, as amended and currently in force, it is stipulated that **documents, records, certificates, licenses, and any legally mandated information**—which must be presented to the **audit bodies of Social Security Funds (IKA-ETAM and SEPE)**—must also be made available to the **Financial Police Directorate of the Hellenic Police** and the **auditors of the Financial Crime Prosecution Corps (S.D.O.E.) of the Ministry of Finance**. This requirement applies within the framework of audits conducted by **Article 14 of the same law**.

Following the completion of audits under **Article 14**, the competent **audit bodies of the Financial Police Directorate** and the **Financial Crime Prosecution Corps (S.D.O.E.)** are required to **prepare and submit a detailed report** documenting their findings.

The **introduction of obligations for payment service providers** is also strategic in to fight against VAT fraud and cyber VAT fraud for the national expert.

Greece mainly applies the **principle of territoriality** in matters of **jurisdiction**.

According to Article 26, Paragraph 2 of Law 4689/2020, Greek criminal courts have jurisdiction over offenses listed in Articles 23 and 24 of the same law, as well as offenses under:

- articles 159, 159A, 235, 236, 237, 237B, 375, 386, 386A, 386B, and 390 of the Criminal Code.
- article 155 et seq. of Law 2960/2001 (A' 265).

- article 39 of Law 4557/2018 (A' 139).

When these offenses are directed against the financial interests of the European Union or are linked to their infringement, jurisdiction is established even when these offenses are committed **abroad by a Greek citizen**, **regardless of whether the act is punishable under the laws of the country where it was committed**. Additionally, Greek jurisdiction applies even if the **conditions of Paragraph 3, Article 6 of the Civil Code** are not met.

As a result, the **exercise of Greek jurisdiction is not contingent** on:

- a **complaint by the victim** in the country where the crime occurred; or
- a **formal denunciation by the state** where the crime was committed.

Furthermore, **Article 5, Paragraph 1 of the Greek Criminal Code** states that **Greek criminal laws apply to all acts committed within Greek territory**, even when committed by **foreign nationals**. Greek law also applies to **acts of participation in a crime committed within Greece**, even if the **main offense**—for which Greek criminal courts may lack jurisdiction—**is also punishable under Greek law**.

Greece is **compliant with Article 12 of the PIF Directive**, by providing a limitation period of more than 5 years. Article 111 par.2 of the Greek Penal Law (4619/2019) regarding the statute of limitation of crimes provides that "*Felonies are time-barred after twenty years if the law provides for life imprisonment and after fifteen years in any other case, unless the law provides otherwise*".

Hungary

According to the national expert, in Hungary, **only the courts have the authority to determine whether a crime has been committed**. Court proceedings are initiated when the **public prosecutor files charges** and the court is bound by the **charges outlined in the indictment**.

During the court procedure, the **principle of free assessment of evidence applies**, meaning the court independently evaluates the evidence presented. While courts in criminal proceedings are **not bound** by decisions made in **civil, administrative, or other legal procedures**, they **may consider and use** evidence gathered by other authorities.

VAT fraud investigations rely heavily on **documentary evidence**, including:

- **fiscal records**: VAT returns, financial statements, general ledgers, invoices, and contracts.
- **public registry documents**: company register, land registry, and other official records.

In addition, **competent authorities** may conduct **on-site investigative actions**, such as:

- **search of premises**.
- **confiscation/seizure of relevant items**.
- **test purchases to verify fraudulent activity**.

Authorities may also employ **surveillance measures** (subject to authorization from a **public prosecutor or judge**) and **collect witness statements** to support the investigation.

In Hungary, **all standard investigative tools and measures** applicable to criminal investigations can also be used in cyber-VAT fraud cases. There are no specialized investigative measures exclusively for cyber-VAT fraud.

Regarding jurisdiction, Hungary applies **both the personality principle** (without conditions) and the **territoriality principle**. Notably, under the territoriality principle, Hungarian jurisdiction extends to

criminal offenses committed on board a craft or aircraft bearing the **Hungarian flag**, regardless of where the vessel is located at the time of the offense.

Hungary is **compliant with Article 12 of the PIF Directive**, which specifies a **minimum limitation period of five years** for the criminal offense of VAT fraud. Similar to most of the respondents (including Austria, Belgium, Croatia, Cyprus, Czech Republic, Ireland, Poland, Romania, Sweden, and the Netherlands), Hungary specifies that penalties for VAT fraud can be enforced for at least five years from the date of the final conviction, whether the penalty involves more than one year of imprisonment or a sentence for a crime punishable by up to four years of imprisonment.

Ireland

Investigations and prosecutions of VAT fraud in Ireland involve **multiple enforcement authorities** within the criminal justice system. The key agencies include:

- **An Garda Síochána** (Ireland's national police service).
- **the Office of the Director of Public Prosecutions**.
- **the Office of the Revenue Commissioners**.

According to the national expert, within An Garda Síochána, the **Garda National Economic Crime Bureau (GNECB)** plays a leading role in tackling economic crime, including VAT fraud. In recent years, there has been a **growing emphasis on multi-agency investigations**, particularly in cases of suspected VAT fraud. Additionally, the newly established **Corporate Enforcement Authority** may become increasingly relevant in cases of company-based fraud.

Law enforcement authorities in Ireland primarily rely on **standard investigative measures**, including:

- **searches of property**;
- **data gathering**;
- **seizure of digital and physical records**;
- **production orders** served on financial institutions;
- **monitoring of financial transactions**.

The **Revenue Commissioners** employ a **data-driven approach** to identifying discrepancies and non-compliance. This involves analysing **taxpayer returns, third-party information, and other intelligence sources**. An increasingly valuable tool is the use of **Suspicious Transaction Reports (STRs)** submitted by financial institutions and designated bodies. In 2023, Revenue received **over 72,900 STRs**, reflecting a **73% increase from 2022**[138].

The national expert noted that a key limitation in Ireland's approach to VAT fraud enforcement is its **non-participation in the European Public Prosecutor's Office (EPPO)**. While Ireland has provisions for **cooperation with non-participating EU member states**, the **European Chief Prosecutor has formally noted** that Ireland has **consistently refused EPPO requests for judicial cooperation**[139]. This lack of participation **restricts access to crucial evidence** in cross-border VAT fraud investigations. Ireland's stance on EPPO participation appears **unlikely to change** in the near future.

[138] Office of the Revenue Commissioners, Annual Report 2023.
[139] Letter to the European Commission, 23 Nov 2021.

There is currently **no evidence of major differences with respect to investigative tools/measures in Ireland between cyber and non-cyber VAT fraud**. While there is an Irish enforcement body for cybercrimes (Garda National Cyber Crime Bureau), this body is concerned primarily with forensic evidence and investigations into ransomware, malware, and hacking.

According to the national expert, overall cyber VAT fraud does not seem to be among the priorities identified in Ireland's cybercrime strategies. This lack of cyber VAT fraud enforcement measures is regrettable, particularly given **Ireland's position as a jurisdiction of choice for various "Big Tech" multinational companies**, which hold vast amounts of valuable personal and communications data.

Finally, the expert discussed Ireland's **challenges with electronic data in criminal cases**, highlighting the need for comprehensive legislation on data holding, access, and judicial oversight in relation to digital evidence.

The expert highlighted also that Ireland has recently had the benefit of a **Review Group Report on structures and strategies to prevent, investigate, and penalise economic crime and corruption**. This expert Review Group identified various issues which the Department of Justice has already committed to addressing through the "Implementation Plan".

Structural/systemic recommendations of the Implementation Plan include:

- Ensuring adequate resources for the GNECB via long-term strategic planning.
- Joint training programs for investigators of economic crime and corruption.
- Optimising exchange of information/intelligence to allow for Joint Agency Task Force models.

Further, according to the Criminal Assets Bureau[140], abuse of VAT schemes has become prevalent in the second-hand motor trade in Ireland. This industry has reportedly been infiltrated by organised crime groups along the Northern Ireland border.

Regarding jurisdiction, both the territoriality and personality principles apply, in full accordance with all provisions of Article 11 of the PIF Directive.

In relation to the **limitation period**, it should be noted that there was no specified limitation period added to the Criminal Justice (Theft and Fraud Offences) Act 2001 as amended during the transposition of the PIF Directive.

Similar to most of the respondents (including Austria, Belgium, Croatia, Cyprus, Czech Republic, Hungary, Poland, Romania, Sweden, and the Netherlands), Ireland specifies that penalties for VAT fraud can be enforced for at least five years from the date of the final conviction, whether the penalty involves more than one year of imprisonment or a sentence for a crime punishable by up to four years of imprisonment.

Italy

In Italy, several investigative tools can be used to combat VAT fraud. These tools come from both traditional financial investigations and more advanced methods, including those used for cybercrime. Some of the key instruments include:

[140] Criminal Assets Bureau, Annual Report 2022.

1. **Financial and Accounting Audits** – Authorities, such as the Guardia di Finanza, conduct in-depth audits of company financial records to identify irregularities in VAT payments.
2. **Cross-Border Cooperation and Data Exchange** – Italy collaborates with other EU member states through mechanisms like EUROFISC, a network that facilitates real-time information sharing on VAT fraud.
3. **Electronic Invoicing and Digital Reporting** – The mandatory use of electronic invoicing and the "Sistema di Interscambio" (SdI) help authorities monitor transactions and detect anomalies.
4. **Bank and Financial Transaction Analysis** – Investigators can access banking records to trace suspicious movements of money related to VAT fraud schemes.
5. **Means of searching for evidence, i.e.: inspections, searches** (both personal and local), **seizures** (assets, but also computer data).
6. **Wiretapping and Surveillance** – In cases of serious fraud, authorities may use wiretapping and covert surveillance to gather evidence against criminal networks.
7. **Artificial Intelligence and Big Data Analytics** – Advanced data analysis tools are increasingly used to detect patterns indicative of fraudulent behavior, such as carousel fraud.
8. **Cybercrime Investigation Tools** – When VAT fraud involves digital platforms or cryptocurrencies, authorities employ cyber forensic techniques similar to those used against cybercrime.

These tools, used in combination, help Italian authorities detect, investigate, and prosecute VAT fraud effectively.

There are **no other specific investigative tools to combat VAT cyber fraud**, but it is possible to use the means of proof and the investigative tools typical of traditional VAT fraud, as well as the instruments dedicated to cybercrime in general, in the case of cyber VAT fraud. This openness, however, is not sufficient. The assessment framework remains the most complex and multifaceted one, compared to the substantive part.

Italian legislation has introduced electronic invoicing since 2019: the transmission of this data, visible to the financial administration, makes it easier for investigators to identify carousel fraud.

During the discussion on the focus groups, it was proposed to expand investigations beyond financial transactions to include communications and system monitoring (e.g. **lawful hacking**), even if it is always difficult to balance this need with data protection and privacy rights.

The Italian stakeholder suggested that tools such as **real-time monitoring of financial transactions and the identification of IP addresses are needed to prosecute fraudsters more effectively**. At the same time, it would be very useful for a **single European business register** and the **use of biometric authentication** for financial services to better identify individuals involved in fraud.

All the proposals consider the other side of the technology, and the potential ethical issues associated with using intrusive technologies like AI and data mining in investigations.

Regarding **jurisdiction**, in Italy, it is applied both the **criterion of territoriality and personality**, and in case of the participation of criminal organisations operating totally or partially in Italy.

Article 11, paragraph 4 of the PIF Directive provides that, in cases where the personality principle applies, certain conditions are excluded. In Italy, no conditions are excluded.

In relation to the **limitation period**, Italy is compliant with the PIF Directive: it is foreseen a period of at least 6 years for felonies[141] (as it is VAT fraud).

Latvia

The **Latvian Tax and Customs Police** has access to a **comprehensive range of investigative tools and methods** for combating **VAT fraud**, with no notable restrictions. This includes the **full spectrum of investigative techniques**, particularly given that **VAT fraud cases** frequently qualify as **serious crimes**.

The **importance of operational investigative work cannot be overstated**, as it facilitates **real-time data collection and intelligence gathering**. Analytical efforts, especially in cooperation with the **State Revenue Service (SRS)**, play a **crucial role** in detecting and dismantling fraud schemes.

According to the national expert, Latvia often functions as an **intermediary jurisdiction**, with the **primary beneficiaries of VAT fraud** located **outside the country**. Given the **significant economic impact** of large-scale VAT fraud, enhanced cross-border cooperation and intelligence-sharing remain essential.

Fraud affecting the **national budget** is addressed through a **robust reporting framework** for **suspicious transactions**, supported by **financial institutions, the Financial Intelligence Unit (FIU), and law enforcement agencies (PPPs)**. This **comprehensive approach** has yielded **results exceeding the EU average**, as reflected in the **2022 VAT Gap Report** compiled by the **European Commission and the State Revenue Service (SRS)**.

The **existing investigative tools and measures** can be **effectively adapted to the digital environment**, provided there is a **continuous commitment** to advancing expertise and adopting **best practices** from across jurisdictions. The **digital landscape** presents **unique challenges**, requiring **ongoing innovation** in investigative techniques. **International collaboration** is crucial, with the **European Public Prosecutor's Office (EPPO)** playing a key role. It may be worth considering a **lowering of the prosecutorial threshold** within the **EPPO framework**, though this would necessitate **expanding its operational capacity**, including an **increase in personnel**.

In the opinion of the expert, to **enhance the effectiveness** of **national criminal procedures** in combating **VAT fraud**, it is essential to **streamline and harmonize** the **regulatory framework** at the **European Union level**. Establishing **consistent practices** across Member States and recognizing **tax administration risk assessments** as **admissible evidence** in **criminal proceedings** would be **significant steps forward**. Additionally, developing **efficient cooperation mechanisms**, both **domestically and internationally**, would further strengthen **investigative efforts**.

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[141] Art. 157 Italian Criminal Code:
The statute of limitations extinguishes the crime after the expiry of the time corresponding to the maximum statutory penalty established by law and in any case a period of no less than six years in the case of a crime and four years in the case of a contravention, even if punished only with a financial penalty.
This provision must be integrated with:
Art. 17 D. Lgs. 74/2000:
The course of the statute of limitations for the crimes envisaged by this decree is interrupted, in addition to the acts indicated in article 160 of the penal code, by the report of findings or by the act of ascertainment of the relevant violations. 1-bis. The statute of limitations for the crimes provided for in articles 2 to 10 of this decree are increased by one third.

The **current lack of harmonization** in **procedural standards** and **evidentiary requirements** across the EU remains a **major obstacle** to the effective prosecution of **VAT fraud**. Addressing these issues through **legislative and procedural reforms** would **significantly improve enforcement outcomes** and enhance **cross-border cooperation**.

In Latvia, both the **territoriality principle and personality principle are applicable.** Article 11, paragraph 4 of the **PIF Directive** states that when the **personality principle** applies, certain **conditions are excluded** — a provision that Latvia **fully implements** without any additional requirements.

The **digital environment** presents **unique complexities** that remain inadequately addressed by existing **national criminal procedures**, particularly due to the **absence of established judicial precedents** in this domain. A key challenge is the **determination of jurisdiction**, especially when an alleged offender is subject to **investigation in multiple countries,** but prosecution is **confined to a single jurisdiction**. This **jurisdictional ambiguity** can significantly hinder effective enforcement efforts.

To address these challenges, it is imperative to:

- **develop new legal frameworks** that clearly define **jurisdictional authority** in digital cases.
- **establish international cooperation protocols** to streamline **cross-border investigations and prosecutions**.
- **enhance information-sharing mechanisms** among enforcement agencies to prevent jurisdictional conflicts.

According to the national expert, a **coordinated EU-wide approach** will be essential to ensure **efficient enforcement** and **strengthen the legal foundation** for tackling digital VAT fraud and other financial crimes.

About the **limitation period, Latvia is compliant with Article 12 of the PIF Directive, providing a duration of at least 5 years** [see Article 56 C.C.[142]].

Lithuania

The **Code of Criminal Procedure of Lithuania** provides a comprehensive and **exhaustive list** of **admissible means of proof**, which include:

- **testimony** from the **suspect, accused, victim, or witness.**
- **expert reports** and **specialist conclusions.**
- **physical evidence**, such as **items and documents.**

During the **pre-trial investigation** of **any criminal offense**, including **cyber VAT fraud**, law enforcement authorities—such as **pre-trial investigators, prosecutors, pre-trial judges, and courts**—are empowered to conduct **procedural coercive measures** and **investigative actions** as outlined in the **Code of Criminal Procedure**.

[142] Art. 56. Criminal Liability Limitation Period
(1) A person may not be held criminally liable if from the day when he or she committed the criminal offence, the following time period has elapsed:
[...]
3) five years after the day of committing a less serious crime.
4) ten years after the day of committing a serious crime.

These **measures and actions** include:

- **Coercive measures**:
  - provisional arrest;
  - committal of a suspect to a medical institution;
  - detention and bringing in of a person;
  - temporary removal from office;
  - temporary restriction of property rights**.**
- **Investigative actions**:
  - searches and seizures;
  - taking of samples for comparative analysis;
  - collection of photographic, video, fingerprint, and genetic dactyloscopy data;
  - covert surveillance and undercover investigations;
  - simulation of a criminal act;
  - interviews, confrontations, and identification parades;
  - on-site verification of testimonies, crime scene examinations, and forensic analyses**.**

This **broad range of tools** ensures that Lithuanian authorities have the necessary legal framework to **effectively investigate and prosecute VAT fraud**, particularly in the **digital sphere**, where complex forensic techniques and intelligence-gathering methods play a crucial role.

In the opinion of the majority of experts, currently **the procedural measures provided for by the Code of Criminal Procedure and Law on Criminal Intelligence are sufficient for the investigation of criminal cases of VAT fraud.**

With regard to **jurisdiction**, Lithuania applies both the **territoriality and personality principles.** Article 11, paragraph 4 of the **PIF Directive** states that when the **personality principle** applies, certain **conditions are excluded** — a provision that Lithuania **fully implements** with only an additional requirement [see Article 8 C.P.C[143]].

Lithuania **is compliant with Article 12 of the OIF Directive on the limitation period of at least 5 years** [see Article 95 C.P.C[144] lit. C].

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[143] Article 8 C.P.C.
Criminal Liability for the Crimes Committed Abroad
1. A person who has committed abroad the crimes [...] shall be held criminally liable only where the committed act is recognised as a crime and is punishable under the criminal code of the state of the place of commission of the crime and the Criminal Code of the Republic of Lithuania. Where a person who has committed a crime abroad is prosecuted in the Republic of Lithuania, but a different penalty is provided for this crime in each country, the person shall be subject to a penalty according to laws of the Republic of Lithuania, however it may not exceed the maximum penalty specified in criminal laws of the state of the place of commission of the crime.
[...]

[144] Article 95 of C.P.C.
Statute of Limitations f a Judgment of Conviction
1. A person who has committed a criminal act may not be subject to a judgment of conviction where:
1) the following period has lapsed:
a) three years, in the event of commission of a misdemeanor;
b) eight years, in the event of commission of a negligent or minor premeditated crime.
c) twelve years, in the event of commission of a less serious premeditated crime.
d) fifteen years, in the event of commission of a serious crime.
e) twenty-five years, in the event of commission of a grave crime.
f) thirty years, in the event of commission of a crime relating to a premeditated homicide.

Luxembourg

The fight against VAT fraud in Luxembourg relies on **several key actors**, particularly the **Anti-Fraud Unit** of the VAT authorities (Service Anti-Fraude).

The pivotal role of the Anti-Fraud Unit is further underscored by the **volume of assistance** requests within the framework of **administrative cooperation with EU countries**—an essential aspect of combating VAT fraud given its **transnational nature**. In 2023, the unit received 192 requests for

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2) within the period laid down in point 1 of paragraph 1 of this Article, the person did not hide from pre-trial investigation or a trial and did not commit a new criminal act.
2. The statute of limitations shall run from the commission of a criminal act until the passing of a judgment.
3. If a minor suffers from the criminal acts provided for in Chapters XVIII, XX, XXI, XXIII and XLIV of this Code, the statute of limitations may not run out before the person reaches the age of twenty-five years.
4. Where a person who has committed a criminal act hides from pre-trial investigation or a trial, the statute of limitations shall not run. The statute of limitations shall resume running from the day when the person is detained or when he appears before a pre-trial investigation officer, a prosecutor or a court. However, a judgment of conviction may not be passed where twenty-five years have lapsed since the commission of the criminal act by the person and thirty years have lapsed since the commission of a crime relating to a premeditated homicide, and the statute of limitations has not stopped running due to commission of a new crime.
5. Where a person who has committed a criminal act enjoys, under laws of the Republic of Lithuania or international legal norms, immunity from criminal liability and the competent authority does not allow his prosecution, the statute of limitations stops running. The statute of limitations shall resume running from the receipt of the competent authority's permission to prosecute the person who has committed the criminal act or after he loses immunity as referred to in this paragraph by other means.
6. In the course of hearing of a case before the court, the statute of limitations shall stop running for a period for which:
1) the court announces a break in the hearing before the court or postpones the hearing of the case due to the absence of the accused or his defense counsel.
2) the court announces a break in the hearing before the court pending an expert examination or a professional investigation assigned by the court or satisfaction of a request for legal assistance submitted to a foreign state.
3) the court announces a break in the hearing before the court and charges a prosecutor or a pre-trial investigation judge with taking the procedural actions provided for in the Code of Criminal Procedure of the Republic of Lithuania.
4) the court announces a break in the hearing before the court for the new defense counsel of the accused to familiarise with the case file.
7. In the cases provided for in paragraph 5 of this Article, a judgment of conviction cannot be passed where a period exceeding that provided for in paragraph 1 by five years has lapsed since the commencement of the statute of limitations.
8. Where a person commits a new premeditated criminal act before the expiry of the terms indicated in this Article, the statute of limitations shall stop running. In such a case, the statute of limitations in respect of the first criminal act shall start to run from the commission of a new crime or misdemeanor.
9. The following crimes provided for in this Code shall have no statute of limitations:
1) genocide (Article 99);
2) treatment of persons prohibited under international law (Article 100);
3) enforced disappearance (Article 100^1);
4) killing of the persons protected under international humanitarian law (Article 101);
5) deportation or transfer of civilians (Article 102);
6) causing bodily harm to, torture or other inhuman treatment of the persons protected under international humanitarian law or violation of protection of their property (Article 103);
7) forcible use of civilians or prisoners of war in the armed forces of the enemy (Article 105);
8) destruction of protected objects or plunder of national valuable properties (Article 106);
9) aggression (Article 110);
10) prohibited military attack (Article 111);
11) use of prohibited means of warfare (Article 112);
12) negligent performance of the commander's duties

assistance from other Member States, along with four spontaneous disclosures related to foreign taxpayers.

Conversely, the Anti-Fraud Unit actively sought cooperation from other Member States through 102 assistance requests and 16 spontaneous disclosures concerning cross-border transactions either originating from or destined for Luxembourg[145].

There are also other tools and measures already in place in the fight against VAT fraud. For example, as of today:

- **Early Warning System** (automated screening of the monthly, quarterly, and annual returns submitted by the taxpayers);
- **standard audits of the VAT authorities**;
- **exchange of information** with authorities of other MS.

Theoretically, these instruments **can also be utilized in the fight against cyber VAT fraud**. however, technological limitations pose a significant barrier.

Regarding **jurisdiction**, both **the territoriality and personality principles apply**. Article 11, paragraph 4 of the PIF Directive stipulates that when the personality principle is applied, certain conditions are excluded. For Luxembourg, there are no exclusions.

Luxembourg **complies with Article 12 of the PIF Directive**, establishing a limitation period of **10 years, or 5 years for offenses punishable by correction** [See Articles 637[146] and 638[147], Code of Criminal Procedure, L. 2009/6].

Malta

In Malta, authorities employ a range of investigative tools to combat VAT fraud, integrating both traditional methods and advanced technological solutions. Key instruments include:

1. **Data Analytics and Artificial Intelligence (AI):** The Malta Tax and Customs Administration (MTCA) utilizes advanced data analytics and AI to automatically detect compliance discrepancies and filing errors. By analyzing extensive datasets, these technologies identify suspicious transactions and potential violations of tax regulations, enhancing the detection of irregular trading patterns associated with VAT fraud.
2. **Transaction Network Analysis (TNA):** As part of the EU's collective efforts, Malta has access to the TNA tool, an automated data mining system that interconnects Member

[145] Ministère des Finances, Rapport d'activitè, exercise 2023, Attributions de l'administration de l'enregistrement,des domaines et de la TVA, 2023.
[146] Article 637 C.C.P.
(1) Public prosecution resulting from a crime shall be time-barred after ten years have elapsed from the day on which the crime was committed, if no investigation or prosecution has been carried out in that interval. If, in the interval referred to in paragraph 1, acts of investigation or prosecution have been carried out which have not been followed by judgment, the prosecution shall not be time-barred until ten years have elapsed, from the date of the last act, even in respect of persons who are not involved in the act of investigation or prosecution.
(2) [...]
[147] Article 638 C.C.P.
In the cases set out in the preceding article, and in accordance with the distinctions of time established therein, the duration of the limitation period shall be reduced to five years if it is an offence of such a nature as to be punishable by correction.

States' tax IT platforms. This facilitates rapid access to cross-border transaction information, enabling near real-time detection and reporting of suspicious VAT activities.

3. **Cross-Border Cooperation:** Malta collaborates with other EU Member States through networks like Eurofisc, enhancing the exchange of information and coordination in tackling cross-border VAT fraud schemes. This cooperation is vital in dismantling complex fraud networks that operate across multiple jurisdictions.
4. **Financial Intelligence Analysis Unit (FIAU):** Malta's FIAU is responsible for collecting and analyzing financial intelligence related to money laundering and terrorism financing, which includes aspects of VAT fraud. The FIAU disseminates its findings to law enforcement agencies for further investigation and potential prosecution.

By leveraging these tools and fostering international cooperation, Malta aims to effectively detect, investigate, and prosecute VAT fraud, thereby safeguarding its fiscal interests and maintaining compliance with EU regulations.

According to the national expert, these tools can be improved by effectively **aligning criminal sanction procedures with administrative sanction procedures** abiding by the 'una via' principle. Criminal procedures would be justified only in cases meeting a materiality threshold.

About **jurisdiction**, in Malta, principles of personality and territoriality applies. According to Article 11, paragraph 4 of the PIF Directive, in cases where the personality principle applies, certain conditions are excluded: in Malta this condition is that the prosecution can be initiated only following a denunciation from the State of the place where the criminal offence was committed.

Regarding the **minimum limitation period** of at least 5 years provided by Article 12 of the PIF Directive, Malta is compliant [Article 688 Criminal Code[148]].

The Netherlands

The Dutch authorities can rely on different investigative tools to fight against VAT fraud, for instance:

- **Requests for information**, including the surrender of books and administration, by the tax authorities or law enforcement authorities to the corporations involved.
- **Use of international requests for information** based on a simplified procedure for tax information exchange offered by the Standing Committee on Administrative Cooperation.
- **Requests for information from investigative authorities to banks** in order to provide the authorities with bank statements of the suspect.
- **Request for information from the Chamber of Commerce**.
- **Telephone tapping**.
- **Witness statements**.
- **Search (on premises of organisation) and seizure of books and administration.**
- **Interrogation of the suspect**.

[148] Art. 688 criminal code:
Save as otherwise provided by law, criminal action is barred- (d) by the lapse of five years in respect of crimes liable to imprisonment for a term of less than four years but not less than one year;

These tools are useful also to fight cyber VAT fraud, also because, according to the national expert, it is very hard to imagine that there still is any non-cyber VAT fraud, at least if cyber VAT fraud is defined as broadly as is in this project. For example, the tax authorities only accept VAT declarations made through an online portal. Most cyber VAT offences will use digitized money transfer systems or banks, and use digital communication tools, which are all covered for investigatory purposes by the tools described above. Therefore, it is very unlikely that the tools available will not suffice to fight cyber VAT fraud as understood in the way described in this project.

During the focus groups, the expert stressed that while e-invoicing isn't an investigative tool per se, it is key to providing data for tax authorities to detect fraudulent activities. At the same time, the expert highlighted the importance of **combining criminal law with procedural tools** and emphasized the growing use of Big Data and AI tools to manage the overwhelming amount of data generated by e-invoicing and digitalization efforts. AI will be central in recognizing patterns and identifying fraud within these large datasets.

About **jurisdiction**, The Netherlands follows the principle of **dual criminality**, except for crimes defined in the PIF Directive, where the condition does not apply.

The Dutch legislation is **compliant with Article 12 of the PIF Directive on the limitation period,** providing one of at least 5 years.

In case of a penalty of more than one year of imprisonment and in case of a penalty of imprisonment for a criminal offense that is punishable by a maximum sanction of at least four years of imprisonment, a penalty imposed for VAT fraud can be enforced for at least five years from the date of the final conviction.

Poland

In Poland, the investigative tools against VAT fraud are foreseen in Section III b of the Tax Ordinance Act, specifically in the **General Anti-Avoidance Rule (GAAR)** - Art. 119zg-119zzk.

According to those articles, the **STIR (Standardized Tax Information Exchange System)** is one of the key systems to fight against VAT fraud, providing a technical framework to assess **financial transactions** and monitor the **flow of funds**. During the focus groups expert argued that digitalisation, in particular electronic invoices and traceability of payments, are essential for the detection of fraudulent VAT transactions and that they are therefore useful general investigation tools that must be digital in order to detect digital crimes.

Thus, the **Polish GAAR** employs tools such as **data analysis**, **financial monitoring systems** (like STIR), and direct **collaboration** with **banks** and **financial institutions** to investigate suspicious activities.

Against cyber VAT fraud it is possible to use effectively also tools in **Section IIIc of the Tax Ordinance - Anti-abuse of law in cross-border operations - art. 119zzł-119zzs**.

This Section is stressed out also the importance of the international cooperation.

About jurisdiction, in Poland it is applied the **principle of territoriality**. Indeed, VAT fraud falls under Polish jurisdiction when the criminal offense is committed in whole or in part within the country's territory, when the offender is a habitual resident in the territory, and when the criminal offense is committed for the benefit of a legal person established in the territory.

Poland is compliant with Article 12 of the PIF Directive on the **limitation period (at least 5 years).**

Regarding the possibility of **enforcing for at least five years from the date of the final conviction sanction for VAT fraud**, Poland, as the majority of the responding MSs (Austria; Belgium; Croatia; Cyprus; Czech Republic; Hungary; Ireland; Romania; Sweden; The Netherlands), answered "both in case of a penalty of more than one year of imprisonment and in case of a penalty of imprisonment for a criminal offense which is punishable by a maximum sanction of at least four years of imprisonment".

Portugal

The Portuguese Tax Authority (Autoridade Tributária e Aduaneira - AT) publishes **annual reports on combating tax and customs fraud and evasion**. These reports provide detailed information on the measures implemented, results achieved, and ongoing challenges in the fight against tax fraud. In the last one, it is highlighted, a**s a means of enforcement, the digitalization of tax processes and the collaboration of Portuguese entities with other European and national entities**. For instance, 180 Tax Authority workers participated in webinars on fraud detection promoted by the European Union Agency for Law Enforcement Training (CEPOL) in 2022.

To improve the current tools for **combating VAT fraud**, the report suggests the **use of new technologies, also based on AI systems.** capable of detecting fraudulent patterns, like the techniques that are being implemented by banks and financial intermediation firms in detecting money laundering, financial fraud, and terrorism financing. These technologies can enhance the ability to identify and prevent fraudulent activities more efficiently. Studies in Anti-Money Laundering (AML), indeed, suggest that AI can significantly reduce the number of false positives, enhancing the efficiency and accuracy of fraud detection processes.

As for the **jurisdiction** of VAT fraud, this crime falls under Portuguese jurisdiction when the criminal offense **is committed in whole or in part within the country's territory**.

Finally, **by Article 12 of the PIF Directive, the national legislation of Portugal does provide for a limitation period of at least 5 years** for the criminal offense of VAT fraud Art. 21, Lei 15/2001[149]].

Romania

The Romanian tax authority, the National Agency for Fiscal Administration ("NAFA"), relies on **different tools to investigate tax fraud including VAT fraud**: NAFA directs and conducts tax audits and in case there is any suspicious element of a fraud the criminal prosecutor will be notified.

Currently, the tax audits have four different forms:

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[149] Article 21, Lei 15/2001:
Limitation, Interruption, and Suspension of Criminal Proceedings
1 - The criminal proceedings for a tax crime are extinguished by limitation once five years have elapsed since the act was committed.
2 - The provision in the preceding paragraph does not affect the limitation periods established in the Penal Code when the maximum limit of the prison sentence is five years or more.
3 - The limitation period for criminal proceedings is reduced to the expiration period of the right to assess the tax liability when the offense depends on that assessment.
4 - The limitation period is interrupted and suspended under the terms established in the Penal Code, but the suspension of the limitation also occurs due to the suspension of the proceedings, as provided in paragraph 2 of Article 42 and in Article 47.

- Tax inspection.
- Unannounced check.
- Fraud check.
- Desk inspection.

Based on the information included in the Annual performance activity of NAFA for 2023 published on 25 March 2024, the **main tool used was tax inspection** with a total of 20,796 audits (15,610 legal persons and 5,186 natural persons). Additionally, the tax authority issued 270 notifications to the criminal prosecutor. NAFA has a specialized unit, the General Directorate for Tax Fraud (Direcția Generală Antifraudă Fiscală), which is dedicated to investigating tax fraud. This unit is also responsible for notifying the criminal prosecutor when fraud is identified. In 2023, the Directorate sent 199 notifications to the criminal prosecutor to initiate criminal investigations[150].

Furthermore, the tax authority employs several additional tools to combat tax fraud. These include the **exchange of information on request and the exchange of information without prior request**, in line with current EU legislation. According to the Annual Performance Activity Report of NAFA for 2023, published on 25 March 2024, Romania responded to 945 requests from other countries and sent 1,121 requests, based on agreements under Council Regulation (EU) No 904/2010 on administrative cooperation and combating VAT fraud. Additionally, under the Bilateral Agreement on administrative cooperation in VAT matters between NAFA and the Bulgarian National Revenue Agency (ANV), 47 requests for information were received, and 58 requests were sent to the Bulgarian tax authorities.

The tax authority also participates in multilateral controls (MLCs) conducted simultaneously across two or more EU Member States. This allows for **enhanced cooperation and the ability for tax officials to access documentation across borders**. Under the framework of the Community Instruments for Advanced International Administrative Cooperation (IAAC) and multilateral controls/PAOE1, NAFA coordinated six operations in 2023 to combat VAT fraud and direct taxes, specifically targeting areas such as transfer pricing, labor, cross-border advisory services, and intra-community transport services.

In Romania, **there are no specific investigative tools for cyber VAT fraud**.

According to the national expert, the current legal framework in Romania is sufficient to combat VAT fraud. However**, the main challenge lies with the tax authority, as the relevant data provided by taxpayers, service providers, and payment service providers is not being fully utilized**. The reporting obligations for businesses are already comprehensive, with the implementation of tools such as SAFT, e-invoicing, and digital reporting. The tax authority has access to this information, but the key issue is ensuring it is properly used.

During the focus groups, the expert emphasized Romania's commitment to driving maximum digitization. The country is implementing a wide range of digital tools, including e-VAT and e-SFT, to ensure that all taxpayers submit their tax returns digitally and electronically. The expert stressed that the tax authority must be able to effectively leverage this data to identify potential fraud and improve enforcement.

In Romania, both the territoriality and personality principles apply in determining jurisdiction. The **territoriality principle** allows Romanian criminal law to be applied to offenses committed within the country's territory, while the **personality principle** extends jurisdiction to crimes committed outside Romania by Romanian citizens or legal entities. This dual approach ensures that Romania

[150] Annual performance activity of NAFA for 2023 published on 25 March 2024.

has legal authority over a broad range of offenses, regardless of where they occur, as long as there is a connection to the country through territory or nationality[151].

[151] In the Romanian criminal code, there are different dispositions related to the jurisdiction:
Art. 8:
Territoriality of criminal law
(1) Romanian criminal law applies to offences committed on the territory of Romania.
(2) The territory of Romania is defined as the expanse of land, the territorial sea waters and inland waters, complete with the soil, sub-soil and airspace located inside the national borders.
(3) An offence committed on the territory of Romania is defined as any offence committed on the territory defined at par. (2) or on a ship sailing under Romanian pavilion or on an aircraft registered in Romania.
(4) The offence is also considered as having been committed on the territory of Romania when on that territory or on a ship sailing under Romanian pavilion or on an aircraft registered in Romania an action was committed with a view to perform, instigate or aid in the offense, or the results of the offense have been manifested, even if only in part.
Art. 9:
Legal standing under criminal law
(1) Romanian criminal law applies to offences committed outside Romanian territory by a Romanian citizen or a Romanian legal person if the sentencing stipulated by Romanian law is life imprisonment or a penalty of more than 10 years imprisonment.
(2) In the other cases Romanian criminal law applies to offences committed outside Romanian territory by a Romanian citizen or a Romanian legal person if the act is also criminalized by the criminal law of the country where it was committed or if it was committed in a location that is not subject to any State's jurisdiction.
(3) A criminal investigation can start on receiving authorization from the Chief Prosecutor of the Prosecutor's Office attached to the Court of Appeals in whose jurisdiction the first Prosecutor's Office is located that received information about the violation, or, as the case may be, from the Prosecutor General of the Prosecutor's Office attached to the High Court of Review and Justice. A prosecutor is entitled to issue such authorization within 30 days of receiving the application for authorization; such deadline can be extended, under the law, but for no more than a total of 180 days.
Art. 10:
Reality of criminal law
(1) Romanian criminal law applies to offences committed outside Romanian territory by a foreign citizen or a stateless person against the Romanian State, against a Romanian citizen or against a Romanian legal person.
(2) A criminal investigation can start on receiving authorization from the Prosecutor General of the Prosecutor's Office attached to the High Court of Review and Justice, and only if the violation is not the object of judicial procedures that are already ongoing in the State on whose territory it was committed.
Art. 11:
Universality of criminal law
(1) Romanian criminal law also applies to other violations than those stipulated at Art. 10, committed outside Romanian territory by a foreign citizen or a stateless person who is located voluntarily on Romanian territory, in the following cases:
a) an offence was committed that the Romanian State has undertaken to repress on the basis of an international treaty, irrespective of whether it is stipulated by the criminal law of the State on whose territory it was committed.
b) extradition or surrender of the offender has been requested and denied.
(2) The stipulations of par. (1) b) do not apply when, under the law of the state on whose territory the violation was committed, there is a cause to prevent the start of criminal action or the continuing of the criminal trial or the serving of the sentence or when the sentence has been served or when the sentence is considered as having been served.
(3) When the sentence has not been served or has only been served in part, the applicable procedure is that of the law on the recognition of foreign judgments.
Additionally, Article II Law 234/2022 transposed Art. 11 (1) (b) PIF Directive:
By way of derogation from the provisions of Article 9 of Law no. 286/2009 on the Criminal Code, with subsequent amendments and completions, as well as in the application of Article 12 of the same law, if the facts are committed outside the territory of the country by a Romanian citizen or a Romanian legal person, regardless of the punishment stipulated by the Romanian law, even if the act is not stipulated s a criminal offence by the criminal law of the country where it was committed and without the prior authorization of the prosecutor general from the prosecutor's office attached to the court appeal in whose territorial area is the

Romania is compliant with Article 12 of the PIF Directive on the **limitation period (at least 5 years).**

In Romania, **a penalty imposed for VAT fraud can be enforced for at least five years from the date of the final conviction** in case of a penalty of more than one year of imprisonment and in case of a penalty of imprisonment for a criminal offense which is punishable by a maximum sanction of at least four years of imprisonment.

Slovakia

The investigative tools used to combat VAT fraud in Slovakia **include the mandatory submission of VAT tax returns electronically and the monthly VAT statements**. While these tools can be applied to detect cyber VAT fraud, their effectiveness remains questionable, as there are currently **no specific investigative tools dedicated to addressing this form of fraud**.

Regarding **jurisdiction**, the **principle of territoriality** applies: indeed a fact falls under Slovakian jurisdiction when the criminal offense is committed, in whole or in part, within Slovakia's territory. Additionally, jurisdiction **extends when the offender is one of the country's officials acting in their official capacity**.

Slovakia's legal framework is **compliant with Article 12 of the PIF Directive**, as it establishes a limitation period of at least five years for VAT fraud cases. According to national legislation, a penalty imposed for VAT fraud can be enforced for at least five years from the date of the final conviction, specifically in cases where the criminal offense is punishable by a maximum sanction of at least four years of imprisonment.

Slovenia

Even though Slovenia did not respond to the questionnaire prepared for the EU Cyber VAT fraud project, it has nonetheless been possible to analyse the investigative legal framework on VAT fraud in Slovenia.

In Slovenia, combating VAT fraud involves a combination of investigative tools and legal provisions aimed at detecting and preventing fraudulent activities. Key tools and measures include:

- **Electronic VAT Returns and Digital Reporting**: Starting this June, businesses will be required to submit VAT tax returns electronically, facilitating efficient data collection and analysis by tax authorities.

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prosecutor's office first notified or the prosecutor general from the prosecutor's office attached to the High Court of Cassation and Justice, the Romanian criminal law applies to the offences stipulated in:
a) Articles 6, 7 and 18^1-18^5 of Law 78/2000 for the prevention, discovery and sanctioning of corruption deeds, with subsequent amendments and completions.
b) Art. 4, 8 and 9 of Law 241/2005 for the prevention and combating of tax evasion, with subsequent amendments and completions, art. 270 and art. 272-275 of Law 86/2006 regarding the Customs Code of Romania, as amended and supplemented, art. 289-292, art. 294, 295, 297, 298, art. 306-309 and art. 367 of the Law 286/2009 on the Criminal Code, with its subsequent amendments and completions, and Article 49 of the Law 129/2019 for the prevention and combating of money laundering and terrorist financing, as well as, as well as for the modification and completion of some normative acts, with subsequent amendments and completions, if they have resulted in the achievement of the financial interests of the European Union.

- **Regular Audits and Inspections**: Tax authorities conduct audits and inspections to verify the accuracy of VAT declarations and identify discrepancies indicative of fraudulent activities.
- **Search and Seizure Operations**: Authorities have the legal mandate to perform searches and seize documents or assets related to suspected VAT fraud, enhancing their ability to gather evidence.
- **Interviews and Surveillance**: Investigative procedures include conducting interviews with suspects and employing surveillance techniques to monitor activities linked to VAT fraud schemes.
- **Inter-Agency Collaboration**: Cooperation among various governmental bodies, such as tax authorities, customs, police, and the judiciary, is crucial for effective detection and prosecution of VAT fraud.
- **Use of Advanced Technologies**: Slovenia is exploring the implementation of artificial intelligence and digital tools to analyze large datasets, aiming to identify suspicious patterns and anomalies in VAT transactions.

While Slovenia utilizes these general investigative tools, there are **no specific instruments exclusively dedicated to cyber VAT fraud**. The effectiveness of existing tools in addressing cyber VAT fraud is an area under continuous evaluation.

Regarding legal **jurisdiction**, Slovenian criminal law applies based on the **territoriality principle**, meaning it covers offenses committed wholly or partially within Slovenia's territory. Additionally, Slovenian law extends to offenses committed abroad by Slovenian citizens or legal entities, provided the act is also criminalized in the country where it was committed.

Slovenia is compliant with Article 12 of the PIF Directive on the **limitation period** (five years after the date when the tax was due; ten years is the absolute limitation period).

Spain

The authorities in Spain that can carry out investigations related to VAT fraud are as follows:

- **Tax Agency (AEAT)**, specifically the **Inspection Authorities** and **National Fraud Investigation Office**.
- **Customs Surveillance Service**.
- **Prosecutor's Office specialized in economic crimes**.
- **Prosecutor's Office specialized in IT crimes**.
- **European Public Prosecutor's Office**: Although the European Public Prosecutor's Office (EPPO) is generally not competent to investigate VAT fraud as it is a national tax matter, it can intervene when the case involves at least two Member States and results in damages exceeding 10 million euros.
- **Specialized Units of the National Police**: These include the **Central Unit for Economic and Tax Crime** and the **Central Brigade for Technological Investigation (BCIT)**.

Regarding the tools used by these authorities to detect and combat VAT fraud, it has to be noted that the Tax Agency (AEAT) and the Tax Inspection Authorities have their own operational program. However, for reasons of confidentiality and the agency's operational capacity, no further data on its functioning is published. The same is true for Customs Surveillance Service.

Other tools are:

- **OSforensics**: This is a digital forensic tool used in tax fraud investigations to analyze computer systems for digital evidence. It helps identify files, records, electronic communications, and data manipulations linked to VAT fraud. OSforensics supports legal proceedings by providing essential digital evidence.
- **HASH**: The HASH tool is used to verify the integrity of financial data by generating unique fingerprints for relevant files. These fingerprints are then compared with those obtained during the investigation to detect tampering or unauthorized changes in documents, financial records, or tax returns that may indicate fraudulent activity.

Currently, **there are no specific tools identified for investigating cyber VAT fraud.**

To improve the detection and prosecution of VAT fraud, **several changes are recommended**:

- **Create Specialized Judges or Courts for Economic Crimes**: Although Spain has specialized prosecutor's offices for economic and IT crimes, judges lack the necessary training to handle these complex cases effectively. This lack of specialized judicial training in economic crimes, including VAT fraud, poses a significant obstacle to effective prosecution. This issue also affects the prosecution of other complex crimes like organized crime and environmental crimes.
- **Changes to the Procedural Model**: It is suggested that Spain adopts a pure accusatory model in which the prosecutor leads criminal investigations rather than the investigating judge. This change would give prosecutors the authority to decide whether or not to pursue charges after investigating the case. Currently, while there are specialized economic crime and cybercrime units in the Public Prosecutor's Office, there are no corresponding specialized units in the judiciary.
- **Reform of Criminal Procedural Law**: Spain's Criminal Procedure Law, dating back to 1882, needs a comprehensive reform to modernize and speed up investigation procedures. Some specific areas require attention:
    - Maximum Investigation Periods: The 12-month limit set by Article 324 of the Criminal Procedure Act is too short to investigate complex economic crimes like VAT fraud. An extension of this period is necessary for such cases.
    - Pre-trial Appeals System: The current system allows almost all decisions issued by the investigating judge to be appealed. This often leads to delays. A new procedural model, where the prosecutor conducts the investigation and decides whether to bring charges, would streamline the process. Appeals could then occur between the investigation and trial stages.
    - Processing Separate Pieces of Evidence in Macro-Cases: The delays in processing large cases (macro-cases) due to their complexity hinder the investigation and prosecution of economic crimes. A more efficient way to handle evidence in macro-cases could improve the speed of legal proceedings.

Spain's **jurisdiction** for VAT fraud cases is governed by the principles of **territoriality** and **personality**:

- The **territoriality principle** applies when the criminal offense occurs entirely or partially within Spanish territory and when the VAT fraud benefits a legal person established in the country[152].

[152] In accordance with article 31 bis of the Penal Code, which contains the system of criminal liability of legal entities. See footnotes 108 and 109.

- The **personality principle** applies when the offender is Spanish[153] or a Spanish official acting within their official capacity[154].

If the VAT fraud offense is committed by a Spanish citizen outside Spain, Spanish jurisdiction applies under the conditions set out in Article 23.2 of the Ley Orgánica 6/1985, of 1 July 1985[155] (The Judiciary Act).

In Spain, VAT fraud penalties can be enforced for **at least five years** from the date of the final conviction under certain conditions (Art. 31 C.C.[156]). Article 33.3(a) of the Spanish Criminal Code defines prison sentences of 3 months to 5 years as less serious penalties. VAT fraud typically falls within this category, and thus the penalties for tax crimes can be enforced within five years of the final conviction. In the case of **aggravated VAT fraud**, the time limit for enforcement may be longer[157].

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[153] Art. 23.1 of the Ley Orgánica 6/1985, of 1 July 1985, of the Judiciary:
"1. In criminal matters, Spanish jurisdiction shall be competent to hear cases involving crimes and misdemeanors committed in Spanish territory or committed on board Spanish ships or aircraft, without prejudice to the provisions of international treaties to which Spain is a party".

[154] Art. 23.3.h of the Ley Orgánica 6/1985, of 1 July 1985, of the Judiciary:
"3. Spanish jurisdiction shall be competent for acts committed by Spaniards or foreigners outside the national territory when they are liable to be classified, according to Spanish criminal law, as any of the following offences:
h) Those perpetrated in the exercise of their functions by Spanish public officials residing abroad and crimes against the Spanish Public Administration".
Section 6 of article 23 of the Ley Orgánica 6/1985, of 1 July 1985, of the Judiciary states a condition:
"6. The offences referred to in paragraphs 3 and 4 shall only be prosecutable in Spain after a complaint has been lodged by the aggrieved party or by the Public Prosecutor's Office".

[155] Article 23.2 of the Ley Orgánica 6/1985, of 1 July 1985 (The Judiciary Act):
2. Spanish jurisdiction shall also be exercised over offences committed outside the national territory, provided that those criminally responsible are Spanish nationals or foreigners who have acquired Spanish nationality after the commission of the act and that the following requirements are met:
a) That the act is punishable in the place of execution, unless, by virtue of an international treaty or a regulatory act of an international organisation to which Spain is a party, this requirement is not necessary, without prejudice to the provisions of the following paragraphs.
b) That the aggrieved party or the Public Prosecutor's Office files a complaint with the Spanish courts. This requirement shall be deemed to be met in relation to offences within the jurisdiction of the European Public Prosecutor's Office when the latter actually exercises its jurisdiction.
c) That the offender has not been acquitted, pardoned or sentenced abroad, or, in the latter case, has not served the sentence. If he has only served it in part, it shall be taken into account in order to reduce his sentence proportionally".

[156] Art. 31 of the Spanish Criminal Code:
1. The statute of limitations for offences shall expire:
At twenty years, when the maximum penalty indicated for the offence is imprisonment for fifteen years or more.
At fifteen years, when the maximum penalty established by law is disqualification for more than ten years, or imprisonment for more than ten but less than fifteen years.
At ten, where the maximum penalty prescribed by law is imprisonment or disqualification for more than five years and not exceeding ten years.
At five, for all other offences, except less-serious offences and the offences of libel and slander, which are subject to the statute of limitations after one year.

[157] Article 133 of the Spanish Criminal Code:
1. The penalties imposed by final judgement are subject to the statute of limitations: (...) At five years, the less serious penalties.
Therefore, the penalties for a tax crime may be executed within 5 years of the final conviction.
In the case of an aggravated tax offence, the time limit may be longer.

Sweden

In Sweden, to combat VAT fraud, the following investigative tools are used:

- **Secret Coercive Measures**: These are covert measures employed by authorities to gather evidence and conduct investigations, often without the knowledge of the subjects involved. These measures include:
    - **Telephone Surveillance**: Secret surveillance of electronic communication, which records the details of telephone calls (such as who called, when, and for how long), but not the content of the conversations.
    - **Camera Surveillance**: The use of hidden cameras to monitor individuals or premises in connection with the investigation.
    - **Room Surveillance**: Covert monitoring of rooms to capture activity and conversations.
    - **Secret Monitoring of Electronic Communication**: This includes obtaining information on electronic communications, such as emails or messages, to trace potentially fraudulent activity.
    - **Secret Data Reading**: This new, time-limited measure, introduced on April 1, 2020, allows authorities to read data stored electronically to uncover evidence of tax fraud or related criminal activities.

In addition to these secret coercive measures, **ordinary coercive measures** can also be used, such as:

- **Seizure** of assets and records.
- **Detention**, **arrest**, and **remand** of suspects.
- **House searches** for relevant evidence.

Cyber VAT fraud can be challenging to investigate, but the application of **secret coercive measures** such as telephone surveillance, camera surveillance, and secret data reading can be effective. These tools allow authorities to collect critical digital evidence while maintaining the confidentiality of the investigation. Although there were earlier difficulties in seizing data stored in cloud systems, recent legislative changes have addressed this gap, enhancing the ability to combat cyber VAT fraud.

The national expert suggests that while the existing tools are quite effective, further improvements could be made, including:

- **Increased use of Artificial Intelligence (AI)**: The Swedish Economic Crime Authority (SECA) has seen success in using AI to analyze large datasets for suspicious patterns. Expanding AI tools could provide better fraud detection capabilities, especially in large and complex VAT fraud cases.
- **Faster and Greater Access to Financial Information**: Timelier access to financial data from third parties, such as banks and financial institutions, would significantly improve the speed and accuracy of VAT fraud investigations.
- **Stronger Inter-Agency Collaboration**: A closer collaboration and better information exchange between relevant authorities, including tax agencies, law enforcement, and financial institutions, would improve the overall effectiveness of VAT fraud investigations.

VAT fraud falls under the **jurisdiction** of Swedish legislation in the following circumstances:

- **When the offense is committed wholly or partially within the country's territory**.
- **When the offender is of the country's nationality**.

- **When the offender is a habitual resident of the country**, particularly when the offense could lead to a prison sentence of six months or more.
- **When the criminal offense is committed for the benefit of a legal person established in the country**, such as in cases involving bribery or corruption.

It must be noted that the principle of **double criminality applies**: the offense must be recognized as a crime in both jurisdictions.

Sweden complies with **Article 12 of the PIF Directive** concerning the **limitation period** for criminal offenses.

Under national law, penalties for VAT fraud can be enforced for at least five years from the date of the final conviction in the following circumstances:

- **Fines and Imprisonment for up to 1 Year**: The limitation period is five years for cases involving fines or imprisonment for up to one year.
- **Imprisonment for 1-4 Years**: The limitation period extends to **10 years** for sentences ranging from 1 to 4 years of imprisonment.
- **Imprisonment for 4-8 Years**: The limitation period is **15 years** for sentences ranging from 4 to 8 years.
- **Imprisonment for More than 8 Years**: The limitation period extends to **20 years** for sentences of more than 8 years.
- **Life Sentences**: In cases where the sentence is for life imprisonment, the limitation period extends to **30 years**.

4.2 General considerations

Investigative tools and measures against VAT fraud and cyber VAT fraud

Law enforcement authorities across the EU employ a variety of investigative tools and measures to combat VAT fraud, adapting strategies to local legal frameworks while sharing common approaches across Member States. Experts representing each EU MS offered insight into the specific methods available to their respective law enforcement agencies.

Key methods include:

1. **Data analytics and information sharing**: many authorities rely on data analytics, information sharing, and automated screening systems (such as VIES in Malta and the Czech Republic) to detect discrepancies and patterns indicative of VAT fraud.
2. **Audits and inspections**: Routine audits and inspections are fundamental tools: these checks are often random, but a risk-based approach can be used to target specific audits where discrepancies are found through previous analysis.
3. **Search and seizure**: Many countries utilise search and seizure operations, often focusing on digital evidence, to gather physical proof of fraudulent activities.
4. **Interviews, audits, and surveillance**: Investigative actions such as interviews, questioning, and surveillance are commonly employed to monitor suspect activities and gather testimonies: not only the suspect is heard, but also experts and witnesses such as employees.
5. **Collaboration with other agencies**: International cooperation and collaboration with other agencies and financial police, enhance the effectiveness of investigations through shared

intelligence and resources. States are quite aware of the sophistication and internationalisation of this kind of crime; thus, they are implementing new ways of sharing information and putting together new agencies and channels of data to monitor compliance in a more integrated way.

6. **Coercive measures**: Some MSs implement coercive measures including provisional arrests and covert operations to control suspects and gather evidence discreetly.

Tab. 1: Answers to question 7: "On which investigative tools/measures law enforcement authorities in your country can rely on for investigative purposes?". EU Member States. N=25. Year 2024.

	Data analysis and information sharing	Audits and inspections	Search and seizure	Interviews, audits and surveillance	Collaboration with other agencies	Coercive measures
AT			X			
BE	X				X	
BG		X	X	X		
CY	X	X	X	X	X	X
CZ	X				X	
DE		X	X	X	X	
DK		X				
ES	X				X	
FI	X	X	X	X	X	
FR	X	X		X	X	
GR	X	X		X	X	
HR	X			X	X	
HU	X	X	X	X	X	
IE	X	X	X	X	X	
IT	X	X	X	X	X	
LT			X	X		X
LU	X	X			X	
LV	X				X	
MT	X	X	X			X
NL	X		X	X	X	
PL	X	X	X	X	X	
PT					X	
RO	X	X				
SE			X			X
SK	X				X	

Source: elaboration by CSSC – project EU CYBER VAT – questionnaire for National Experts.

As a general perception, it can be observed in all European countries that the **investigative tools and measures used for general VAT fraud also apply to cyber VAT fraud**, thus **specific tools tailored for cyber VAT fraud are very rare**: several countries (Malta, Hungary, Italy, Ireland, Lithuania, Bulgaria, Spain, Slovakia, Romania, Luxembourg, Czech Republic; and Belgium) report that there are **no specific tools designed for cyber VAT fraud**, indicating a reliance on general fraud investigation tools. **Latvia** points out the continuous commitment to advance expertise and share best practices among jurisdictions, managing to adapt "traditional" strategies to nowadays phenomena.

In summary, while many countries rely on traditional investigative tools adapted for cyber contexts, the **question 9** of the questionnaire ("*How could the national criminal procedure be improved to*

better combat VAT fraud in your country?") **and 10** ("How could the national criminal procedure be improved to better combat cyber VAT fraud in your country?") highlights how there is a clear need for **specialised training**: Portugal, for example, underlines the importance of specialised training for investigators in cybercrime and fraud, indicating ongoing collaboration with European Union agencies for law enforcement training - and technological advancements to effectively combat cyber VAT fraud.

Finally, **cooperation at the EU level** also plays a significant role in addressing the transnational nature of these crimes; the implementation of EU directives, such as the European Investigation Order and reporting obligations for cross-border money transfers (as seen in the Czech Republic), illustrates a coordinated approach across Member States to enhance the effectiveness of investigations.

With specific regard to question 9*,* many States, such as **Hungary**, **Bulgaria**, **Cyprus**, and the **Czech Republic**, again emphasised the need for specialised training for investigators and the establishment of dedicated units or "fiscal police" with expertise in tax law and VAT fraud. Other MSs highlighted:

- **inter-agency cooperation**: Improved cooperation between different agencies and authorities responsible for VAT fraud detection and investigation is highlighted by Greece and Bulgaria as crucial for effective enforcement.
- **use of technology**: The adoption of new technologies, such as AI for detecting fraudulent patterns (Portugal) and digital reporting systems (Denmark), is seen as essential for modernising the fight against VAT fraud. Italy emphasizes the importance of using technological tools to connect all existing databases to perform cross-checks of data.
- **legal and procedural reforms**: Countries like Spain and France call for significant legal reforms, including updating criminal procedural laws, extending investigation periods, and creating specialised courts or legal provisions specifically targeting economic and VAT fraud.
- **effective use of data**: Romania and Slovakia point out the need for better utilisation of existing data and reporting systems by tax authorities to identify and act on VAT fraud more effectively; Croatia agrees, suggesting the creation of a centralised database to gather information from tax authorities, institutions, and law enforcement.
- **systematic improvements**: Spain suggests a more profound procedural model change where prosecutors lead investigations and the need for reforms to reduce delays in complex economic crime cases.
- **international cooperation**: enhancing international collaboration and aligning with EU directives and tools, such as the European Investigation Order, is seen as beneficial by countries like Greece and Bulgaria.
- **alignment of sanctions**: Malta mentions the need to align criminal and administrative sanction procedures, ensuring criminal procedures are justified and meet a materiality threshold.

Many of the solutions underlined for 'classic' VAT fraud are suggested for cyber VAT as well, particular attention is given to the training of specialised agents, more education, and the use of AI. Some countries (**France**, **Spain,** and **Latvia**) are calling for **legislation to be updated to specifically address VAT fraud**, defining offenses and penalties more clearly, and ensuring that procedures are efficient and effective. However, lots are the experts believe there is no need for improvement or did not answer the question.

During the focus groups, the discussion emphasized the need for a multi-layered approach to combating VAT and cyber VAT fraud that combines legal, technological and procedural innovations. In particular, **e-invoicing, and digitalisation** are crucial for providing the data needed for investigations, while **AI and big data analytics** are crucial for evaluating and comparing vast amounts of information. **Lawful hacking and real-time transaction monitoring** were suggested as potential tools, although privacy and legal oversight concerns remain high. There was agreement on the idea that the EU should develop unified digital tools to avoid fragmented national systems. Finally, the discussion highlighted the need for further research and the development of best practices for the detection of VAT fraud across the EU, with a particular focus on improving cross-border cooperation and harmonizing legal standards.

Jurisdiction (Article 11 of the PIF Directive)

Article 11 of the PIF Directive requests that each MSs take the necessary measures to establish its jurisdiction over the criminal offences where:

- the criminal offense is committed in whole or in part within its territory; or
- the offender is one of its nationals.

All the responding MSs – except for Cyprus - apply their own jurisdiction based on the principle of territoriality. Most of all apply also the personality principle (20 out of 24).

Article 11 also allows for the possibility of establishing specific cases and exceptions, albeit within certain limits and with the obligation to inform the Commission in the event of adopting specific jurisdiction-related decisions.

Limitation period (Article 12 of the PIF Directive)

The **limitation period** is the legally defined time frame within which authorities can initiate legal proceedings against an offender after a crime has been committed. Once this period expires, prosecution is no longer possible, meaning the offender cannot be legally charged or tried for the crime. VAT fraud and cyber VAT fraud, especially in complex or cross-border cases, often involve sophisticated schemes, multiple entities, and digital transactions that make investigations lengthy and difficult. A longer limitation period is crucial for several reasons:

1. **Complex Investigations** – VAT fraud cases often require in-depth financial analysis, cross-border cooperation, and digital forensics, which can take years to uncover and prove. A short limitation period could allow criminals to escape justice before authorities complete their investigations.
2. **International Cooperation** – Many VAT fraud schemes, such as **carousel fraud (MTIC fraud)**, involve multiple countries. Legal cooperation between jurisdictions can take time, and a longer limitation period ensures that international legal requests (e.g., extradition, data-sharing) can be processed effectively.
3. **Deterrence** – Fraudsters might engage in long-term tax evasion schemes, knowing that if they remain undetected for a few years, they could avoid prosecution. A longer limitation period increases the risk of being caught and penalized, discouraging potential offenders.
4. **Recovery of Damages** – A longer timeframe allows authorities to track and recover illicit gains from fraudulent activities, ensuring that stolen VAT revenue can be reclaimed and reinvested into public funds.

5. **Adaptation to New Fraud Tactics** – Fraud schemes evolve with new technologies and loopholes. Investigators need time to trace hidden transactions, decrypt data, and follow financial trails that might only become evident after several years.

Under **Article 12 of the PIF (Protection of Financial Interests) Directive**, EU Member States are required to have a limitation period of at least **five years** for serious VAT fraud cases, ensuring that authorities have enough time to prosecute offenders and recover stolen funds.

The **vast majority of EU Member States comply with the provisions of Article 12 of the PIF Directive**. **Some countries have even longer periods**, depending on the severity of the offense.

5. The role of ICT in the strategy and policy to combat cyber VAT fraud

This section deals with the **use of information and communication technologies (ICT) in strategies and measures to prevent and detect VAT fraud**. Through the expert questionnaire and subsequently during the first online focus group, the tools, systems, and frameworks used by countries to address this growing challenge were examined, with a focus on national and cross-border initiatives.

In particular, national researchers are asked to identify the **ICT strategies** or measures they consider **most effective** in combating VAT fraud, based on a list of suggestions such as:

- Collection of data by law enforcement agencies.
- National plan of cybersecurity (e.g. by updating operating systems, applications, and security software to protect against vulnerabilities in institutions' digital archives).
- Analysis and monitoring of transactions (e.g. to detect suspicious activities to detect fraud early).
- Cross-border cooperation (e.g. digital systems for the exchange of information).
- Submission of information regarding intra-community transactions (e.g. e-reporting).

The individual **ICT-specific national strategies/policies** in each Member State, and their critical nodes were also identified. Finally, the problem of **fragmentation of legal frameworks and differences between e-invoicing/e-reporting systems in EU Member States** was addressed by asking experts for advice on the benefits of greater harmonisation in digital reporting, optimising the use of digital technologies in the fight against VAT fraud, and the use of e-invoicing/e-reporting systems in other Member States.

5.1 Study results

Austria

Austria has implemented a **robust anti-fraud strategy and policies involving ICT aimed at combating VAT fraud**, ensuring compliance with EU regulations, and safeguarding the financial interests of the state and the European Union. The key elements of Austria's approach to VAT fraud prevention and enforcement include legislative frameworks, institutional roles, tools, and cooperation with other Member States and EU bodies.

According to the national expert, some of the ICT policies and strategies more useful against cyber VAT fraud are:

- **Collection of data by law enforcement agencies.**
- **National plan of cybersecurity** (e.g. by updating operating systems, applications, and security software to protect against vulnerabilities in institutions' digital archives).
- **Analysis and the monitoring of transactions** (e.g. to detect suspicious activities to detect fraud early).
- **Cross-border cooperation** (e.g. digital systems for the exchange of information).
- **Submission of information regarding intra-community transactions** (e.g. e-reporting).

Belgium

Belgium's cybersecurity strategy for 2021-2025[158] **explicitly excludes "measures to combat the use of ICT for fraud**[159]". In contrast, the previous Cybercrime Strategy (2018[160]) included fraud as part of cybercrime but did not specifically address VAT fraud.

Belgium's **VAT administration is responsible for analyzing and monitoring transactions to detect suspicious activities and identify fraud at an early stage**. However, the effectiveness of these efforts is influenced by the fragmented legal framework across EU Member States. The European Commission has noted that the lack of harmonization in **e-invoicing and e-reporting systems** among Member States presents a challenge for fraud detection and enforcement.

According to national experts, greater **uniformity in e-invoicing and e-reporting** would significantly enhance the ability to analyze reported information, facilitate document comparability, and improve cross-border information exchange between tax administrations. However, to handle this vast amount of data effectively, authorities require **powerful IT tools**, including AI-driven solutions. Without adequate technological infrastructure, tax authorities risk being overwhelmed by the sheer volume of information.

Currently, each Member State is developing its tools, but this approach is **costly**. A **more coordinated effort at the EU level** to develop common tools and data-sharing frameworks would greatly enhance fraud detection and prevention while reducing costs.

Finally, while leveraging AI and data-processing technologies can enhance fraud detection, it is **crucial to ensure compliance with fundamental rights and EU secondary legislation**, particularly the **General Data Protection Regulation (GDPR), the Law Enforcement Directive, and the AI Act**.

Bulgaria

Bulgaria adopted **multiple strategies and policies involving ICT against VAT fraud**, including a robust legislative framework, clearly defined institutional responsibilities, advanced enforcement tools, and strong collaboration with other Member States and EU bodies.

Some of the most useful strategies against cyber VAT fraud, according the national expert, are:

- **Collection of data by law enforcement agencies.**
- **National plan of cybersecurity** (e.g. by updating operating systems, applications, and security software to protect against vulnerabilities in institutions' digital archives).
- **Analysis and the monitoring of transactions** (e.g. to detect suspicious activities to detect fraud early).
- **Cross-border cooperation** (e.g. digital systems for the exchange of information).
- **Submission of information regarding intra-community transactions** (e.g. e-reporting).

Those strategies are **useful also against cyber VAT fraud**. An example could be the obligation for all online traders to maintain a real-time online connection with the servers of the revenue authorities.

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[158] Report available at: https://ccb.belgium.be/sites/default/files/CCB_Strategie%202.0_UK_WEB.pdf.
[159] At page 8 of the above-mentioned Report.
[160] Report available at: https://eucpn.org/sites/default/files/document/files/BE.pdf.

Finally, **Bulgaria advocates for the adoption of digital reporting and e-invoicing for EU cross-border transactions as an effective measure to prevent and combat VAT fraud, including cyber fraud**. Currently, the country's reporting system relies on monthly VAT returns and sales and purchase listings. However, the quality and timeliness of data submission could be significantly enhanced by implementing e-invoicing and real-time reporting for domestic transactions.

Croatia

In Croatia, **multiple strategies and policies incorporate ICT elements to combat VAT fraud**. The most effective against cyber VAT fraud, according to the national expert, are:

- **Analysis and the monitoring of transactions** (e.g. to detect suspicious activities to detect fraud early).
- **Cross-border cooperation** (e.g. digital systems for the exchange of information).
- **Submission of information regarding intra-Community transactions** (e.g. e-reporting).

All three of these **points are crucial for the early detection of VAT fraud**. By collecting this information, authorities can leverage advanced analytics, data analysis tools, and risk management systems to identify high-risk taxpayers, monitor their transactions, and act before they evade detection.

In Croatia, there are **no specific anti-fraud ICT strategies/policies against cyber VAT fraud.**

According to the national expert, **promoting the introduction of digital reporting obligations that optimize the use of digital technologies** — such as establishing minimum requirements for all EU countries — would be an effective way to combat VAT and cyber VAT fraud. However, full standardization across the EU is unlikely. While certain core elements of data collection could be harmonized, a fully standardized VAT return for all Member States and taxpayers is not feasible. A mandatory e-invoicing system, at least for cross-border transactions, would be a strong starting point. Aligning it with the existing EU standard for e-invoicing in public procurement processes would be beneficial, as taxpayers could use the same software solutions for cross-border transactions without incurring additional adaptation costs.

Cyprus

In Cyprus, there are **several strategies and policies that incorporate ICT elements to combat VAT fraud**. The most effective against cyber VAT fraud, in national expert's opinion, are:

- **National Cybersecurity Plan**: this includes measures such as updating operating systems, applications, and security software to protect against vulnerabilities and enhance the resilience of digital infrastructures.
- **Cross-Border Cooperation**: the implementation of digital systems for the exchange of information facilitates real-time data sharing and collaboration between authorities, strengthening efforts to detect and prevent VAT fraud at an international level.

Even though Cyprus is the only Member State that explicitly defines cyber VAT fraud as a specific crime, there are no dedicated strategies or policies specifically targeting it. Finally, according to the national expert, **standardizing digital reporting obligations across Europe would not be an effective solution for combating VAT fraud.**

Czech Republic

The Czech tax administration employs the Indirect Tax Control Management Unit and the Inspection Support Unit to combat VAT fraud. These departments rely on data analyzed by other specialized units.

Below is an overview of key analytical departments involved in uncovering VAT fraud:

- **Data Mining and Modeling Unit:** supports the Tax Methodology and Tax Administration Sections by extracting and preparing data for further processing. In cooperation with the Control Activities Department, it influences the selection of taxpayers for audits within national control initiatives.
- **VAT Risk Analysis Unit:** extracts and analyzes data from VAT returns and other submitted claims. It also processes control statement data, particularly in relation to the first and second rounds of matching, to identify discrepancies and potential fraud.
- **Control Statement Analysis Unit:** specializes in processing and analyzing VAT control statements. This unit helps identify relevant data sources, define data requirements for the data warehouse, and enhance the functionality of analytical applications.

The exchange of information on cross-border trade within the EU is facilitated through summary reports and the **VAT Information Exchange System (VIES)**. In 2022, **118,501 VAT payers** and **11,005 identified persons** submitted summary reports (VAT listings) on goods and services supplied to other Member States. The exchange of VAT-related data with EU counterparts is governed by **Council Regulation No. 904/2010** and **EC Implementing Regulations No. 79/2012 and No. 815/2012**. During the year, the Czech authorities sent **2,527 information requests** and received **1,889 requests**, covering aspects such as VAT payer registration data and other compliance-related information[161].

According to the national expert, some of the most useful ICT strategies against cyber VAT fraud are:

- **Analysis and the monitoring of transactions** (e.g. to detect suspicious activities to detect fraud early).
- **Cross-border cooperation** (e.g. digital systems for the exchange of information).
- **Submission of information regarding intra-community transactions** (e.g. e-reporting).

Those **strategies are useful also against cyber VAT fraud**: the control statement is very effective [See 6.6] and in 2016 was implemented: Czech VAT payers can issue e-invoices, which have to include all necessary details (according to section 29 of the Czech VAT Act). However, they do not have to report each invoice online to the tax administrator. The VAT payers and tax administration will incur additional costs for implementing the new format of the VAT control statement. The implementation of the online e-invoicing will also involve initial and ongoing administrative and compliance costs.

[161] Annual Report on the Activities of the Financial Administration for the year 2022, available at: www.financnisprava.cz/assets/cs/prilohy/fs-financni-spravacr/Vyrocni_zprava_o_cinnosti_FS_CR_za_rok_2022.pdf

Denmark

The VAT gap in Denmark is remarkably low. Although Denmark was not required to transpose the PIF Directive, it has implemented equivalent measures in the fight against VAT fraud, as outlined in the sections above.

The country adopts **ICT-based policies and strategies to combat VAT fraud**, particularly due to its highly digitalized tax system [see sections 2.7, 4.7, and 6.7].

Among the numerous existing strategies and policies, the most effective ones against cyber VAT fraud, according to the national expert, are:

- **Analysis and monitoring of transactions**: this includes detecting suspicious activities early to prevent and combat VAT fraud effectively.
- **Cross-border cooperation**: digital systems facilitate the exchange of information between Member States, enhancing fraud detection.
- **Submission of information on intra-community transactions**: the use of e-reporting ensures timely and accurate reporting, improving transparency and oversight.

For these measures to be truly effective, **they must include qualitative elements that go beyond mere data collection**.

Finally, the national expert firmly believes that **introducing digital reporting obligations that optimize the use of digital technologies**—such as establishing minimum requirements for all EU countries—**would be a highly effective approach** to combating VAT and cyber VAT fraud.

Estonia

Estonia employs **several ICT-based policies and strategies** to combat VAT cyber VAT fraud:

- **Cybersecurity Act:** Enacted in 2018, this legislation establishes requirements for maintaining network and information systems vital to society. It outlines measures for preventing and resolving cyber incidents, ensuring the security of digital infrastructures that support tax and financial systems.
- **Cybersecurity Strategy 2024–2030:** This national policy framework aims to enhance Estonia's resilience to cyber threats. It focuses on safeguarding digital infrastructure, protecting citizens and institutions, and reinforcing international cybersecurity cooperation. Key actions include implementing risk-based cybersecurity regulations across industries and encouraging investments in cybersecurity measures.
- **Amendments to the Value Added Tax Act and the Taxation Act:** In 2023, Estonia introduced legislation mandating payment service providers to store data on payees of cross-border payments and transmit this information quarterly to tax authorities. This initiative improves the detection of VAT fraud in cross-border e-commerce by facilitating data sharing through the European Union's central electronic system of payment information.

Finland

Finland employs **several ICT-based policies and strategies** to combat VAT fraud.

According to the national expert, against cyber VAT fraud, the key is the **cooperation** between MSs and EU: criminals are always finding new ways to commit fraud, making collaboration between authorities the only effective way to combat them. This would be greatly facilitated by greater **harmonization**, particularly in **digital reporting and information exchange systems.**

France

The **French expert**, based on his country's experience, summarises the main effective anti-fraud strategies against VAT and cyber VAT fraud, which include:

- **Online transaction monitoring** to detect and respond to suspicious activities in real-time.
- **Development of data analysis tools** using advanced technology and AI to identify unusual patterns in financial transactions.
- **International cooperation** to enhance cross-border collaboration and information sharing for investigating international VAT cyber fraud.
- **Strengthening cybersecurity** to protect systems and institutions from cyberattacks, including VAT fraud.
- **Digital forensic investigation** to collect and analyse digital evidence for building strong legal cases.
- **Digital audits** of companies suspected of VAT fraud, focusing on IT systems and transaction logs for evidence of tampering.

According to the national expert, transaction analysis and monitoring, and cross-border cooperation, can specifically be more effective in detecting and preventing VAT cyber fraud in France, as these measures result in the **early identification** of suspicious activity and **collaboration** with other jurisdictions to investigate and analyse offenders.

At the same time, with the **harmonization of rules and regulations related to electronic invoicing and electronic reporting, it will be possible to have consistent and transparent results** for the European Union, with the consequent reduction of fraudulent practices, since by establishing minimum requirements for electronic invoicing and electronic reporting in all EU countries, the EU can facilitate the exchange of information between Member States' tax authorities and improve the detection and prevention of cross-border VAT fraud, as well as enabling a possible reduction in tax evasion and VAT fraud practices, given the incentive to voluntarily comply with tax obligations.

However, there is a need for this harmonization to be well planned and to meet the specific needs and realities of each Member State so that it is possible to have a balance in the application of regulations by the Member States and that this is effective in its applicability.

Germany

According to national experts, the most effective ICT strategies against cyber VAT fraud include:

- **Analysis and monitoring of transactions** (e.g., detecting suspicious activities early to prevent fraud);
- **Cross-border cooperation** (e.g., digital systems for exchanging information);

- **Submission of information on intra-community transactions** (e.g., e-reporting);
- **Application of the reverse charge procedure.**

These measures help identify risks at an early stage and enhance fraud prevention. However, **the most crucial aspect remains addressing the VAT system's Achilles' heel—the input tax deduction**. In this regard, the reverse charge procedure has proven to be particularly effective.

In Germany, there are **no specific strategies against cyber VAT fraud**.

Greece

According to the national expert, all suggested policies and strategies involving ICT (Q.14 of the questionnaire) are valuable in the fight against cyber VAT fraud. While Greece does **not have specific strategies targeting cyber VAT fraud**, the **drafting and continuous updating of the National Cybersecurity Plan**, considering the evolving digital landscape, is seen as the most effective measure. Ensuring a high level of ICT system security at the national level is crucial for the effectiveness of other anti-fraud strategies and tools, such as **gathering information from third parties** and **cross-border cooperation**.

Greece has developed **specific electronic platforms for data submission**, aimed at automating the declaration process to simplify compliance and enable faster, more efficient tax authority controls:

- **Transaction Reporting Regime – "Digital Accounting and Tax Application" (myDATA)**: This platform applies to businesses and entities maintaining accounting records under Article 1 of Law 4308/2014 (Greek Accounting Standards), regardless of company size, category, or method of compliance. These entities must electronically transmit data in accordance with Article 15A of Law 4174/2013 (Code of Tax Procedures).

The **European Commission** has highlighted that transitioning to **real-time digital reporting based on e-invoicing** for businesses operating cross-border in the EU will help **reduce VAT fraud**. Greece's **myDATA platform** has undergone several updates, including **new requirements effective from January 1, 2024**, mandating sales invoicing and bookkeeping data submission via **ERP API**.

Additionally, the **Ministry of Finance and the Independent Authority for Public Revenue (AADE)** plan to introduce **mandatory VAT e-invoicing, potentially starting in 2025**. They intend to **engage with the European Commission** to secure the necessary **derogations from the EU VAT Directive** to enforce this requirement. Authorities believe implementation could occur as early as 2025, further strengthening the **existing myDATA system**, which has mandated **full VAT invoice reporting and e-Books submission** since 2022. This transition could lead to the introduction of **pre-filled VAT returns**, possibly by 2025.

Hungary

According to the national expert, **cross-border cooperation and submission of information regarding intra-Community transactions** are the most effective ICT strategies against cyber VAT fraud.

All governmental agencies collect and process data, of course, if valuable insights are expected on cyber VAT fraud, the relevant data sets and sources need to be properly defined. Cybersecurity is an overarching responsibility of public authorities as more and more databases (not only for

taxation) are available online. Real-time analysis of transaction data is an emerging trend in tackling VAT fraud, but not restricted to cyber VAT fraud.

In national expert's view **cross-border cooperation** is especially important for cyber VAT fraud in order to provide a **harmonized approach**, otherwise measures will be ineffective. Information sharing on cross-border transactions (e.g. regarding intra-Community transactions) is important because authorities usually have more information on resident taxpayers therefore more means to tackle fraud. The virtual aspect of cyber VAT fraud makes it especially appealing for fraudsters to target foreign jurisdictions which significantly reduces the risk for them if there is no solid framework of cross-border information sharing.

Hungary **implemented a real-time invoice reporting system with the intention of giving tax authorities real-time data to tackle all forms of VAT fraud**, and this is very useful also against cyber VAT fraud. One critical aspect of VAT fraud is that the persons committing the criminal offense are often difficult to find as significant time passes between when the fraud occurs and when it is identified. Real-time data reporting and the processing of such data with proper algorithms can make it significantly more difficult to commit fraud. At the same time, it is important for such mandates not to be overly burdensome on legitimate businesses.

Ireland

According to the national expert, the **introduction of digital reporting obligations that optimize the use of digital technologies**, e.g. by introducing some minimum requirements for all EU countries would be an effective means of combating VAT and cyber VAT fraud. **Fragmentation across jurisdictions is typically a major contributing factor in easing the commission of international financial crime.** This has been a longstanding problem not only in the taxation context but also in money-laundering and criminal activity more generally. It is felt that Ireland would be open to, and capable of, modernising and harmonising VAT reporting requirements with other EU Member States.

It would appear from the Irish perspective that the **most widely used technological standards in this area are already employed in this jurisdiction**, and naturally, it would be beneficial for diverging Member States to align themselves with this.

However, there are some respects in which Ireland is somewhat behind in terms of e-invoicing as compared to EU counterparts. For instance, jurisdictions such as Spain and Italy have already implemented **mandatory e-invoicing for B2B and B2C transactions – whereas Ireland has not**. The national expert suggested that would be prudent for Ireland to continue to move towards implementing these e-invoicing systems in a way that is comparable to other EU Member States. Given that Ireland is still in the process of reforming in this area, this transitional period offers an obvious opportunity to reassess its technological systems in this area. Another noteworthy aspect in Ireland is the profile of taxpayers. In 2023, 36% of VAT payments (and 44% of VAT repayments) were made by merely 2% of VAT traders (known as "Large Corporates"): a minority of traders constitute the majority of VAT payments/repayments.

Italy

In Italy, the VAT gap was among the highest in Europe, but recently, the country has seen a significant decrease in tax evasion. This improvement is also linked to the **strategies and policies**

to combat VAT fraud, utilizing a combination of legislative frameworks, technological tools, and administrative measures. The following outlines the key strategies Italy employs to tackle VAT fraud:

- **Digital Reporting and E-Invoicing**
    - **E-invoicing:** Italy has been a pioneer in implementing mandatory e-invoicing, starting in 2019. All businesses, regardless of size, are required to issue electronic invoices for B2B and B2C transactions. This move helps in real-time data collection and monitoring, facilitating the identification of fraudulent activities.
    - **E-Reporting System:** The **Sistema di Interscambio (SdI)** is a platform for the electronic exchange of invoices between taxpayers and the tax administration. Through the SdI system, the tax authority can monitor transactions and detect potential fraud more efficiently.
    - **Pre-Filled VAT Returns:** In addition to e-invoicing, Italy also uses pre-filled VAT returns, where the tax administration automatically fills in a significant portion of the VAT return based on data collected through e-invoicing, reducing human error and minimizing tax evasion opportunities.
- **Real-Time VAT Monitoring**
    - **Transaction Monitoring:** Italy has developed advanced systems to monitor VAT transactions in real-time. These systems help identify discrepancies, such as when businesses over-report input VAT or under-report output VAT.
    - **VAT Control Unit:** The Italian **Revenue Agency** (Agenzia delle Entrate) has a dedicated VAT Control Unit responsible for conducting risk-based analyses of VAT filings, investigating potential fraud, and verifying the correctness of tax declarations.
- **Cross-Border Cooperation**
    - **VIES (VAT Information Exchange System):** Italy uses the VIES system to exchange VAT-related data with other EU Member States, ensuring that cross-border transactions are properly monitored and that VAT fraud schemes involving multiple countries can be identified.
    - **Fighting Carousel Fraud:** Italy has been particularly active in combating **carousel fraud**, which involves the fraudulent claim of VAT refunds on goods that are traded across multiple countries. The use of **VIES** and enhanced monitoring tools makes it easier to trace suspicious cross-border transactions.
- **Reverse Charge Mechanism for Certain Goods and Services:** Italy applies the reverse charge mechanism to specific high-risk sectors, such as construction, electronics, and scrap metal. Under this system, the buyer, rather than the seller, is responsible for paying VAT. This prevents the risk of fraudulent VAT refunds by shifting the VAT liability away from the seller.
- **Data Analytics and Artificial Intelligence (AI)**
    - **Advanced Data Analytics:** The Italian tax authorities use sophisticated **data analytics** tools and **artificial intelligence (AI)** to analyze VAT data and identify patterns that may indicate fraudulent activity. These tools enable the tax

authorities to spot discrepancies in VAT declarations, track suspicious transactions, and identify high-risk taxpayers.

- **Risk Profiling:** Italy uses data-driven approaches to create risk profiles for businesses, focusing control efforts on high-risk entities and sectors, which helps optimize resource allocation and enhance fraud prevention.

- **Collaboration with Other Authorities and International Organizations**
  - **Cooperation with Law Enforcement:** Italy collaborates with other national authorities, including the **Financial Police (Guardia di Finanza)**, to detect and investigate VAT fraud. The Guardia di Finanza plays a critical role in detecting VAT fraud schemes, including money laundering linked to VAT evasion.
  - **EU-Level Collaboration:** Italy is an active participant in EU initiatives aimed at combating VAT fraud, particularly through the **European Anti-Fraud Office (OLAF)** and cross-border cooperation under EU VAT regulations.
- **Legislative Measures**
  - **VAT Audits and Inspections:** Italy frequently conducts VAT audits and inspections to identify fraudulent activities, with a particular focus on sectors prone to fraud. The authorities have strengthened penalties and enforcement measures for non-compliance with VAT regulations.
  - **Penalties for VAT Fraud:** Severe penalties are imposed on businesses caught engaging in VAT fraud, including hefty fines and criminal charges, with the goal of deterring fraudulent activities.
- **Public Awareness and Education** - **Campaigns and Training:** The Italian tax authorities conduct regular campaigns to raise awareness about VAT fraud and educate businesses on the importance of compliance with VAT regulations. These efforts also include training tax professionals on how to identify and prevent fraud.
- **Taxpayer Incentive for Reporting Fraud:** Italy offers incentives for businesses that cooperate with authorities in identifying fraud schemes, including reduced penalties or immunity from prosecution in certain cases.

At this moment, there are **no specific policies and strategies against cyber VTA fraud**.

According to the national expert, the most effective ICT policies and strategies against cyber VAT fraud are analysis and the monitoring of transactions, cross-border cooperation and submission of information regarding intra-community transactions (e.g. e-reporting).

The speed and multi-territoriality of the main cyber VAT frauds **require a real-time exchange of information among MSs**; in many cases the fraudster makes many intra-community sales in a short time, making it difficult for investigators, with the current information exchange systems, to promptly identify the fraud. This entails the possibility for fraudsters to move to non-EU countries and/or to move the profits from scams to countries that do not share financial information.

Latvia

In Latvia, there are **no specific strategies against cyber VAT fraud**.

According to the national expert, the most useful ICT strategies and policies against cyber VAT fraud are: the **collection of data by law enforcement agencies, analysis and monitoring of transactions,** and **cross-border cooperation**. Also, the introduction of **digital reporting obligations with minimum requirements across all EU countries is an effective way to combat VAT and cyber VAT fraud**. Latvia is currently undergoing significant changes to its VAT reporting system, including the introduction of mandatory structured e-invoicing for B2G transactions by January 2025 and B2B transactions by January 2026, alongside the implementation of a Continuous Transaction Controls (CTC) regime.

However, there are critical points in Latvia's national VAT reporting rules that need improvement to align with these goals:

- **System Integration Challenge**: The mandatory use of the EN 16931 e-invoicing format may require significant updates to existing business systems, particularly for smaller companies.
- **Real-Time Reporting Burden**: The CTC regime's requirement for real-time VAT reporting could increase the administrative burden, especially for SMEs, which may struggle with the necessary system integrations.
- **Decentralized Compliance Risks**: The flexibility of a decentralized CTC model could lead to inconsistencies in compliance and reporting standards among businesses, creating potential gaps in the system.
- **Post-Audit Model Preparedness**: Latvia's choice of a post-audit model without mandatory infrastructure could result in varying levels of business preparedness, particularly for those less technologically advanced.
- **Archiving Guidelines**: Clear guidelines are needed for invoice archiving, particularly concerning international storage, to ensure compliance with both local and EU laws.

Lithuania

The most effective ICT strategies and policies against cyber VAT fraud are:

- **Collection of data by law enforcement agencies.**
- **Analysis and the monitoring of transactions** (e.g. to detect suspicious activities to detect fraud early).
- **Cross-border cooperation** (e.g. digital systems for the exchange of information).
- **Submission of information regarding intra-community transactions** (e.g. e-reporting).

In the opinion of experts, the information obtained in mentioned ways and its analysis makes it possible to identify the riskiest activities (businesses) related to VAT and cyber VAT fraud (also deception methods), and at the same time facilitate and speed up the investigation of criminal cases, allow the introduction of structured methodologies of the VAT and cyber VAT fraud investigation, etc. On the other hand, as indicated by the majority of experts, it is necessary to evaluate and revise the basis of the information provided (e.g., features of suspicious financial transactions, etc.), because the amount of information currently collected is extremely large, which law enforcement agencies cannot process and evaluate in a high-quality manner.

Contrary to the majority of MSs, Lithuania **has specific policies in place to combat cyber VAT fraud**. Indeed, Lithuanian law enforcement agencies (responsible for investigation of VAT and cyber VAT fraud cases) use, *inter alia*, such **pro-active and post-active specific ICT** strategies for the collection of information:

- a program that selects data stored on the computer according to certain keywords.
- a program that performs analysis of information from public sources based on certain keywords.
- a program that performs cryptocurrency data analysis.
- internet (including dark web) monitoring.
- database with information about foreign legal persons.
- database with information about Lithuanian, Latvian, and Estonian legal persons.
- US customs database; etc.

At the political level, the Government of the Republic of Lithuania has created a **Coordination Commission for the Reduction of the Shadow Economy**, which assesses the progress of the implementation of the Action Plan for reducing the shadow economy and the VAT gap, implemented by the state institutions, other implemented and proposed measures for the reduction of the shadow economy, the supervision of economic entities, the exchange of information between state institutions, and preparation of legal acts, aimed at preventing undeclared economic activities and tax evasion, etc[162].

Meanwhile, the Ministry of Finance has approved an Action Plan for reducing the shadow economy and the VAT gap[163], which, *inter alia*, includes such measures aimed at **simplifying tax declaration and payment** (e.g. creating links between information systems and ensuring the movement of electronic invoices between private and public sector entities, enabling automatic processing without human intervention; to introduce electronic services that help taxpayers to calculate and pay taxes as simply as possible; to implement the project "Ecosystems in which documents for the purchase and sale of goods and/or services (e-receipts) would be available to buyers in electronic format, development", etc.).

Finally, it has to be noticed that in the opinion of the majority of national experts, the introduction of digital reporting obligations (with minimum requirements for all EU member states) that optimize the use of digital technologies can increase the effectiveness of combatting VAT and cyber VAT fraud. On the other hand, such a reporting system should be as simple and clear as possible; and the frequency of reporting should not become a greater (additional) administrative burden for business entities.

Luxembourg

According to the national expert, there are **no specific strategies against cyber VAT fraud**, but the most useful in this combat are: the national plan of cybersecurity, the analysis and the monitoring of transactions, the cross-border cooperation, and the submission of information regarding intra-community transactions.

In Luxemburg, there are several strategies against VAT fraud in general, but they can be effective also against cyber VAT fraud, such as:

[162] Decision of the Government, TAR, 2023-07-27, No. 15280.
[163] Order of the Minister of Finance adopted on October 6, 2021, No. 1K-317.

- **Digital Reporting and E-Invoicing.**
- **Use of Data Analytics and Artificial Intelligence (AI).**
- **Cross-border cooperation.**
- **Strong enforcement mechanisms.**
- **Cybersecurity framework.**
- **VAT fraud awareness and training.**

According to the national expert, the **introduction of digital reporting obligations** (with minimum requirements for all EU member states) that optimize the use of digital technologies can increase the effectiveness of combating VAT and cyber VAT fraud.

Malta

The Maltese expert recognizes all the strategies suggested in Q.14 of the questionnaire as important for combating cyber VAT fraud.

In Malta, there are numerous strategies involving ICT tools to **tackle both traditional VAT fraud and cyber VAT fraud**. Notably, the **Maltese National Cybersecurity Strategy for 2023-2026** is a key initiative, which, alongside other measures, aims to address the growing challenges of the digital landscape. Among these strategies, the following stand out:

- **Electronic VAT Reporting**: Malta has introduced mandatory e-filing for VAT returns and e-invoicing, ensuring real-time reporting and improving transparency. This helps authorities monitor VAT transactions more effectively and detect potential fraud early.
- **VAT Control Framework**: Malta's tax authorities use advanced data analytics tools to identify discrepancies in VAT returns and cross-border transactions. This includes a system to monitor intra-community transactions and other international exchanges of goods and services, ensuring compliance with EU VAT rules.
- **Collaboration with EU Member States**: Malta actively participates in EU-wide initiatives for sharing VAT-related information, such as the VAT Information Exchange System (VIES). This allows cross-border cooperation in monitoring VAT fraud.
- **Anti-Fraud Measures for E-Commerce**: Malta has adopted specific measures to combat VAT fraud in the e-commerce sector, including enhanced monitoring of digital platforms and the introduction of new reporting obligations for businesses involved in cross-border sales.
- **Risk-Based Approach**: Malta's VAT administration employs a risk-based approach for audits and investigations. This approach allows authorities to prioritize high-risk VAT fraud cases, focusing resources on areas with the greatest potential for fraud.
- **Public Awareness and Training**: The Maltese authorities work to raise awareness about VAT compliance and fraud prevention, offering training programs for businesses and tax professionals to ensure proper understanding of VAT obligations.

The national expert believes that the **introduction of digital reporting obligations** (with minimum requirements for all EU member states) that optimize the use of digital technologies can increase the effectiveness of combating VAT and cyber VAT fraud.

The Netherlands

According to the national expert, the most effective ICT strategies and policies against cyber VAT fraud are:

- **Collection of data by law enforcement agencies**: information gathering by law enforcement from for instance banks, telephone companies, and Chambers of Commerce is indispensable for investigations into cyber VAT fraud.
- **Cross-border cooperation** (e.g. digital systems for the exchange of information): Tax authorities are used to exchange information with authorities abroad, for instance through SCAC procedures, which appear to be quite effective.
- **Submission of information regarding intra-community transactions** (e.g. e-reporting): In the Netherlands, VAT declarations can only be made through e-reporting. At the moment, there are talks to introduce e-invoicing, but that is not introduced yet. E-reporting enables the tax authorities to efficiently execute oversight and investigations.

In The Netherlands, there are **specific strategies against cyber VAT fraud**.

The Tax authority pursues a policy of moving towards **digital declarations** for most or all forms of taxation. This policy is complete for VAT, since VAT declarations can be made exclusively through e-reporting, and paper-based declarations are no longer possible. Most of the communication with government authorities in general, and also with related services such as in the health sector proceeds through digital channels. For these channels, users need a **two-step verification process** using the bespoke 'DigiD' identification service, which is intended to increase authenticity and prevent identity fraud. The national government pursues a policy of 'basic registrations', which number 10 in total, for registering persons, companies, buildings, addresses, etcetera, which are connected in a system of basic registrations, enabling cross-exchange and comparison and thereby countering fraud.

The national expert believes that the **introduction of digital reporting obligations** (with minimum requirements for all EU member states) that optimize the use of digital technologies can increase the effectiveness of combatting VAT and cyber VAT fraud. Currently, reporting obligations require companies to declare VAT with the Dutch tax authorities once every three months. This leads to a low-intensity oversight from the tax authorities on VAT declarations. This time gap can be exploited by criminal organisations for instance to disband the fake companies they use in carousel fraud cases. Enabling more direct and **real-time oversight** will cause this scheme to be more difficult to pursue.

Poland

In Poland, there are **several strategies and policies against VAT fraud**, such as:

- **Seizure and freezing bank accounts** [Article 119zv and 119 zw Tax Ordinance[164]].

[164] Article 119zv Tax Ordinance:
Request to block the account of a qualified entity
§ 1. The Head of the National Fiscal Administration may request the blocking of the account of a qualified entity for a period of up to 72 hours if the information in his possession, in particular the results of the risk analysis referred to in Article 119zn § 1, indicate that the qualified entity may use the activities of banks or cooperative savings and credit unions for purposes related to tax extortion or for activities aimed at tax extortion, and the blocking of the account of the qualified entity is necessary to counteract this.

- **Split payments** [Art. 108a[165]].

Article 119zw Tax Ordinance:
Extension of the blocking of the account of a qualified entity
§ 1. The Head of the National Fiscal Administration may extend, by means of a decision, the term of blocking the account of a qualified entity for a specified period of time, however, not longer than 3 months, if there is a justified fear that the qualified entity will not perform an existing or about to arise tax liability or a liability on account of tax liability of third parties, exceeding the equivalent of EUR 10 000 converted into PLN according to the average exchange rate of EUR announced by the National Bank of Poland on the last working day of the year preceding the year in which the decision was issued.
165 Article 108a. [Payment by means of the split payment mechanism].
1.Taxpayers who have received an invoice showing the amount of tax may use the split payment mechanism when making payment of the amount due under that invoice.
1a. When making payments for the purchased goods or services listed in Appendix No. 15 to the Act, documented by an invoice in which the total amount due exceeds the amount of PLN 15,000 or its equivalent expressed in a foreign currency, taxpayers shall be obliged to apply the split payment mechanism. The rules for converting amounts expressed in foreign currency into zlotys shall be applied to determine the taxable amount.
1b.The taxable person required to issue an invoice referred to in point 18a of Article 106e(1) shall be obliged to accept payment of the amount due resulting from that invoice using the split payment mechanism.
1c.The provisions of paragraphs 1 to 1b shall apply mutatis mutandis to the payments referred to in Article 19a(8). In that case, in the transfer message referred to in paragraph 3, the taxable person shall enter the word 'advance payment' instead of the information referred to in paragraph 3(3).
1d.Where a set-off is made, the provisions of paragraphs 1a and 1b shall not apply to the extent that the amounts due are set off.
1e.The provisions of section 1a and 1b shall not apply in case of making the payment of the amount of receivables resulting from an invoice documenting the transactions realized in the execution of the public-private partnership agreement as specified in art. 7 section 1 of the Act of the 19th of December 2008 on public-private partnership (Journal of Laws of 2023, item. 30 and 203), if the entity to which the payment is made, as of the date of making the delivery, was a private partner with whom the public entity concluded a public-private partnership agreement, or a one-person company of a private partner, or a capital company whose only partners are private partners, with which the public entity concluded a public-private partnership agreement.
(2) The application of the split payment mechanism is that:
1) payment of the amount corresponding to all or part of the amount of tax resulting from the invoice received shall be made to a VAT account.
2) the payment of the whole or part of the amount corresponding to the net sales value resulting from the invoice received is made to a bank account or to an account in a cooperative savings and credit union for which a VAT account is kept or is settled in another manner.
(3) Payment using the split payment mechanism shall be made in Polish zlotys using a transfer message provided by the bank or cooperative savings and credit union intended for making payments under the split payment mechanism, in which the taxpayer shall indicate:
1) the amount corresponding to all or part of the tax amount resulting from the invoice to be paid under the split payment mechanism.
2) the amount corresponding to all or part of the gross sales value.
3) the number of the invoice in respect of which payment is made.
4)the number by which the supplier of the goods or services is identified for tax purposes.
3a Where more than one invoice is issued to the taxable person by a single supplier over a period of not less than one day and not more than one month, the payment by means of the split payment mechanism may relate to more than one invoice.
3b. In the case referred to in paragraph 3a, the remittance message referred to in paragraph 3:
(1) shall include all invoices issued to the taxable person by a single supplier over a period of not less than one day and not more than one month.
2) includes an amount corresponding to the sum of the amounts of tax shown in the invoices referred to in point 1.
3c. In the case referred to in paragraph 3a, the period for which the payment is made shall be entered in the transfer message referred to in paragraph 3 instead of the information referred to in paragraph 3(3).
3d. Where an amount corresponding to the amount of tax and duties is paid to a direct or indirect representative within the meaning of the customs legislation, the transfer message referred to in paragraph 3 shall, in place of the information referred to in paragraph 3:

- **Empty invoices:** A taxable person who has issued an empty invoice that is not followed by a supply of goods or services or that does not originate from him is liable to pay tax [art. 108, 112b[166]].

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(1) points (1) and (2) shall indicate the amount corresponding to the amount of tax and duties to be paid under the split payment mechanism.
2) point 3 - the number of the document relating to the payment issued by the direct or indirect representative within the meaning of the customs legislation shall be indicated.
(3) point 4 - the number by which the direct or indirect representative within the meaning of the customs legislation is identified for tax purposes shall be indicated.
(4) In the cases specified in Article 29a(10) points (1) to (3) and (14), the repayment of the whole or part of the payment may be made by means of the transfer message referred to in paragraph (3), in which the taxpayer, in place of the information referred to in paragraph (3) point (4), indicates the number by which the purchaser of goods or customer is identified for tax purposes.
(5) Where payment is made in the manner set out in paragraph (2) to a taxable person other than that indicated in the invoice referred to in paragraph (3)(3), the taxable person to whom that payment is made shall be jointly and severally liable with the supplier of those goods or services for the tax not settled by the supplier of those goods or services arising from that supply of goods or services to the extent of the amount received on the VAT account.
(6) Joint and several liability of a taxable person referred to in paragraph (5) shall be excluded where that taxable person has made:
(1) payment into the VAT account of the supplier of goods or services indicated on the invoice referred to in paragraph 3(3), or
2) return the payment received to the VAT account of the taxable person from whom that payment was received, as soon as he becomes aware of its receipt, or
3) a payment to the VAT account of the taxable person indicated in the debt acquisition agreement concluded with the supplier or the acquirer - in the amount received into the VAT account, paragraph 3 applying mutatis mutandis.
(7) Where it is established that a taxpayer has made a payment in violation of paragraph (1a), the head of the tax office or the head of the customs and fiscal office shall establish an additional tax liability in the amount corresponding to 30% of the amount of tax attributable to the purchased goods or services listed in Annex No. 15 to the Act, shown on the invoice to which the payment relates. With respect to natural persons who are liable for a fiscal offence or a fiscal crime for the same act, the additional tax liability shall not be established.
(8) The provision of paragraph (7) shall not apply if the supplier or service provider has accounted for the entire amount of tax resulting from an invoice which was paid in violation of paragraph (1a).
[166] Article 108:
Principle of tax shown on an invoice
(1) Where a legal person, a non-corporate organisational unit or a natural person issues an invoice in which he shows the amount of tax, he shall be obliged to pay it.
(2) The provision of paragraph (1) shall apply mutatis mutandis where the taxable person issues an invoice in which he shows the amount of tax in excess of the amount of tax due.
(3) In the case referred to in Article 43(12a), a public benefit organisation shall be liable to pay the tax.
VAT sanctions. Sanctions of 30 per cent, 20 per cent and 100 per cent are imposed for filing an unreliable VAT return.
Article 112b:
Determination of additional tax liability
(1) Where it is established that the taxpayer:
1) in the submitted tax return has shown:
(a) the amount of tax liability lower than the amount due,
(b) the amount of tax difference to be repaid or the amount of input tax to be repaid higher than the amount due,
c) the amount of tax difference to reduce the amount of tax due for subsequent settlement periods higher than the amount due,
d) the amount of tax difference refund, the amount of input tax refund or the amount of tax difference to reduce the amount of tax due for subsequent settlement periods, instead of showing the amount of tax liability to be paid to the tax office,
2) did not submit a tax return and did not pay the amount of the tax liability
- the head of the tax office or the head of the customs and fiscal office determines respectively the amount of these amounts in the correct amount and establishes an additional tax liability in the amount of up to 30%

Finally, the national expert believes that the **introduction of digital reporting obligations** (with minimum requirements for all EU member states) that optimize the use of digital technologies can increase the effectiveness of combat VAT and cyber VAT fraud.

Portugal

According to the national expert, the analysis and the monitoring of transactions (e.g. to detect suspicious activities to detect fraud early) and cross-border cooperation (e.g. digital systems for the exchange of information) are the most valuable ICT strategies against cyber VAT fraud. This is

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of the amount of understatement of the tax liability, the amount of overstatement of the tax difference refund, input tax refund or tax difference to reduce the tax due for subsequent settlement periods.
(2) If, after the completion of a tax inspection or customs and fiscal control in the cases referred to in:
1) paragraph (1) item 1, the taxpayer has submitted a correction of the declaration taking into account the irregularities found and, at the latest on the date of submission of that correction of the declaration, has paid the amount of the tax liability or has returned the undue amount of the refund,
2) in subsection (1)(2), the taxpayer submitted a tax return and, at the latest on the date of submission of that return, paid the amount of the tax liability,
- the head of the tax office or the head of the customs and revenue office shall determine an additional tax liability in the amount of up to 20% of the amount of the understatement of the tax liability, the amount of the overstatement of the tax difference refund, the input tax refund or the tax difference to reduce the tax due for subsequent settlement periods.
2a.If, in the case referred to in subsection 1 item 1, the taxpayer corrected the declaration in accordance with Article 62(4) of the Act of 16 November 2016 on the National Fiscal Administration and, at the latest on the date of submission of that correction of the declaration, paid the amount of the tax liability or returned the undue amount of the refund, the head of the customs and tax office shall determine an additional tax liability in the amount of up to 15% of the amount of the understatement of the tax liability, the amount of the overstatement of the tax difference refund, the input tax refund or the tax difference to reduce the tax due for subsequent settlement periods.
2b.In determining the additional tax liability referred to in sections 1-2a, the head of the tax office or the head of the customs and fiscal office shall take into account:
1) the circumstances in which the irregularity arose.
2) the type and degree of violation of the taxpayer's obligation which resulted in the irregularity.
3) the type, degree and frequency of the irregularities found so far with respect to the non-barred tax obligations.
4) the amount of irregularities found, including the amount of understatement of the tax liability, the amount of overstatement of the refund of the tax difference, the refund of the input tax or the tax difference for the reduction of the tax due for subsequent settlement periods.
5) the actions taken by the taxpayer after the irregularities were identified to remove the consequences of the irregularities.
(3) The provisions of paragraphs 1-2a shall not apply:
1) if, prior to the date of initiation of a tax audit or customs and fiscal control, the taxpayer:
(a) submitted an appropriate correction of the tax return, or
b) submitted a tax return with the tax amounts indicated
- and paid to the account of the tax office the amount resulting from the submitted tax return or correction of the tax return together with interest for delay.
2) with regard to the determination of the additional tax liability, in the event that the understatement of the amount of the tax liability or the overstatement of the amount of the tax difference refund, input tax refund or tax difference to reduce the tax due for subsequent settlement periods, is connected with:
(a) calculation errors or obvious mistakes made in the return,
b) non-recognition of output tax or input tax in the settlement for a given settlement period, and the output tax or input tax was recognised in previous settlement periods or in periods subsequent to the relevant settlement period, if this occurred prior to the day on which a tax inspection or customs and fiscal control was initiated.
3) with respect to the determination of an additional tax liability in relation to natural persons who are liable for a fiscal offence or a fiscal crime for the same act.

because **digitization enables real-time prevention** and, as such, is more effective. And secondly, **due to the transnational nature of this particular type of crime, typically based on cross-border transactions**.

Portugal has **no specific strategies and policies** against cyber VAT fraud.

The EU has noted (as explained in the final report "VAT in the Digital Age - Volume 1 - Digital Reporting Obligations") that there is a fragmented legal framework and very different systems for e-invoicing and e-reporting in different European Member States. The national expert agrees on the **importance of standardization**, but at the same time has reservations in relation to the **financial costs of digitisalisation**, which may represent an excessive barrier for small businesses. For this reason, **cooperation among the MSs is stressed as the key** to making the obligations work more efficiently.

Romania

In Romania, there are several ICT strategies and policies against VAT fraud, for instance:

- **Collection of data by law enforcement agencies.**
- **Analysis and the monitoring of transactions** (e.g. to detect suspicious activities to detect fraud early).
- **Cross-border cooperation** (e.g. digital systems for the exchange of information).
- **Submission of information regarding intra-community transactions** (e.g. e-reporting).

The above anti-fraud strategies are used in Romania as mentioned in the **Semestrial activity report**[167] and **Performance Report of NAFA**[168], and they can be useful also against cyber VAT fraud, even if in Romania there are **no specific strategies** against it.

According to the national expert, it is very important for Romania, the Member State with highest VAT gap in EU, to have a EU **commune digital reporting obligation**. The countries with very low VAT gap have to support the implementation of a standard model.

Romania introduced SAF-T, E-invoicing, Union One-Stop-Shop (Union OSS), and Import-One-Stop-Shop (IOSS) and Reverse charge mechanism for certain transactions. These measures are important and relevant but for cyber VAT fraud it is not enough if these measures are not applied at the EU level.

Slovakia

In Slovakia there are several ICT strategies and policies against VAT fraud, but none is specific for cyber VAT fraud. According to the national expert, the most useful against cyber VAT fraud are:

- **Analysis and the monitoring of transactions** (e.g. to detect suspicious activities to detect fraud early).
- **Submission of information regarding intra-community transactions** (e.g. e-reporting).

[167] Published by NAFA on 25 September 2023.
[168] Published on 25 March 2024.

According to the national expert, the **introduction of digital reporting obligations** that optimize the use of digital technologies can increase the effectiveness of combatting VAT and cyber VAT fraud, even if in Slovakia, no improvements are needed.

Slovenia

Slovenia has implemented various ICT-based strategies to combat VAT fraud, incorporating both traditional and digital measures. Some of the key strategies include:

- **E-invoicing and Real-time Reporting**: Slovenia has introduced mandatory e-invoicing for all business-to-business (B2B) transactions. This is aimed at reducing VAT fraud by enabling tax authorities to monitor transactions in **real-time**. The use of digital invoices ensures that tax information is automatically submitted to the tax authority, reducing the possibility of fraudulent reporting.
- **eTax System**: Slovenia has developed an online platform, eTax, which businesses use to file their VAT returns and submit other tax-related information. This system simplifies reporting processes, reduces human error, and allows tax authorities to access and analyze the data faster, which helps detect discrepancies and fraudulent activity more effectively.
- **Taxpayer Monitoring and Data Matching**: Slovenian tax authorities employ advanced data matching and analytics to detect inconsistencies between reported transactions. By cross-referencing transaction data from businesses, they can identify potential VAT fraud cases, such as when VAT claims are made without proper justification or when companies claim input VAT on non-existent transactions.
- **Cross-border Cooperation and VIES System**: Slovenia uses the VAT Information Exchange System (VIES) to exchange information with other EU member states about cross-border transactions. This system is particularly useful for identifying VAT fraud in intra-EU trade, such as carousel fraud. Cross-border cooperation is crucial for tracing and verifying transactions that involve multiple countries.
- **Risk-based Approach and Automated Detection**: The Slovenian Tax Administration uses automated risk analysis systems to identify high-risk taxpayers and suspicious transactions. This system analyzes the patterns of VAT reporting, transactions, and other economic data to detect fraudulent behavior. The risk-based approach helps target the most problematic cases, improving efficiency in VAT fraud detection.
- **Cybersecurity Measures**: In line with its broader national cybersecurity strategy, Slovenia ensures the security of its digital tax systems. This includes measures to protect against cyberattacks that could compromise the integrity of VAT reporting systems and facilitate VAT fraud. Strengthening cybersecurity at the national level is a crucial component in securing sensitive tax information.

Spain

According to the national expert, the most useful strategies against cyber VAT fraud are:

- **Collection of data by law enforcement agencies**: The quality of the LEAs' databases, especially that of the Tax Agency, is one of the basic pillars for the prosecution of tax fraud, including VAT cyber fraud. In order to achieve this objective, it is essential that the

information obtained from third parties through information returns is incorporated quickly, with the highest possible quality and rigor into the Tax Agency's database.

- **National plan of cybersecurity** (e.g. by updating operating systems, applications, and security software to protect against vulnerabilities in institutions' digital archives): In the same way that it is important to keep databases up to date and complete, it is imperative to promote the use of tools that enable the efficient analysis of such data. These tools, which are increasingly based on algorithms and AI, should be used not only for ex-post detection of fraud but also to detect red flags before fraud is committed.
- **Analysis and the monitoring of transactions** (e.g. to detect suspicious activities to detect fraud early): This is the method by which fruit and vegetable operations can be identified. It is therefore necessary to establish a rigid system for monitoring these transactions.
- **Cross-border cooperation** (e.g. digital systems for the exchange of information).
- **Submission of information regarding intra-community transactions** (e.g. e-reporting).

These two issues can be addressed together. In a context where transactions are no longer limited to the borders of one state, but where cross-border trade is the norm, it is essential to strengthen the control of cross-border transactions. Moreover, the very nature of VAT makes cross-border transactions particularly vulnerable and suitable for tax fraud. It is therefore necessary to strengthen the control system for intra-community transactions.

Spain has **specific strategies against cyber VAT fraud**. Within the Spanish Cybersecurity National Plan:

- The creation of the **National Platform for Notification and Monitoring of cyber-incidents and threats**.
- The implementation of the **Cybersecurity Operations Centre of the General State Administration and its Public Bodies**.
- The creation of an **integrated system of cybersecurity indicators**.

Recent measures, such as the creation of the National Cyber Incident and Threat Notification and Monitoring Platform, are particularly relevant in the fight against cyber tax fraud. This platform facilitates the **rapid and effective exchange of information between various agencies and authorities**, allowing for a coordinated and agile response to potential threats. In addition, the implementation of the Cybersecurity Operations Centre of the General State Administration and its Public Bodies further strengthens the government's ability to detect, prevent and respond to fraud. Complementing these initiatives, the creation of an integrated system of cybersecurity indicators provides a more complete picture of the current situation and helps to identify areas of potential risk.

Regarding the Annual Tax and Customs Control Plan for 2024, it states the following in relation to VAT fraud in the context of e-commerce: "*The growth of e-commerce in recent years has been exponential and has led to widespread cross-border commerce. In this context, the emergence of fraudulent businesses has been detected that take advantage of the opportunities offered by e-commerce in order to gain unfair commercial advantages by avoiding their VAT obligations. Where the principle of destination taxation of VAT applies and the recipient is a final consumer who is not subject to accounting obligations, the Member States of consumption need to have appropriate tools to be able to detect these payments, as they may be an indication that the recipient is carrying out an undeclared economic activity. Information on cross-border payments obtained from payment service providers, once this new reporting obligation is implemented, will be of great relevance for the control of this fraud*".

To carry out this control, and in addition to the new reporting obligation of the digital platforms themselves, the flow of information on cross-border payments through payment service providers will be particularly useful. But while this measure is being implemented, a plan will be put in place that includes a census review of foreign sellers to check formal compliance with their obligations, contrasts between the volumes imported and the figures declared at Customs by parcels, etc.

Finally, according to the opinion of the national expert, the **introduction of digital reporting obligations with minimum requirements for all EU** countries could be an effective way to combat VAT fraud and cyber VAT fraud. In Spain, one aspect to improve is the **frequency** of reporting. Currently, VAT reporting occurs on a three-month basis for most companies, which may not provide real-time information or allow for the timely detection of fraudulent activities. **Increasing the frequency of reporting or implementing real-time reporting** requirements could strengthen VAT control mechanisms and improve fraud detection capabilities.

Sweden

According to the Swedish expert, the most useful strategies against cyber VAT fraud are:

- **Collection of data by law enforcement agencies**: Authorities have access to a huge amount of data, in which there is a lot of information to detect. With the right AI tools, irregularities may be discovered. This is an important tool.
- **National plan of cybersecurity** (e.g. by updating operating systems, applications, and security software to protect against vulnerabilities in institutions' digital archives): Very important as well, to protect VAT (payment) data from being manipulated.
- **Analysis and the monitoring of transactions** (e.g. to detect suspicious activities to detect fraud early): There is a great potential if transactions that could be monitored in real-time. Technically, this could be made to a much greater extent than now, since most payments are made digitally, and many transactions are made over internet, but the legal issues are not solved yet. Extend Directive 2020/284 to domestic transactions.
- **Cross-border cooperation** (e.g. digital systems for the exchange of information): **In combination with e-invoicing and real-time reporting of each transaction**. Otherwise, the exchange of information is too slow and not detailed enough.
- **Submission of information regarding intra-community transactions** (e.g. e-reporting). Also in this case, the monthly and quarterly statements are too slow, it would be necessary to have real-time reporting. Existing VAT return procedures take too long, making it difficult to detect fraud as it occurs.

The expert also noted that Sweden had conducted a public investigation into proactive measures to combat tax fraud, such as checking VAT numbers instantly.

At the same time, in Sweden, there are specific strategies against cyber VAT fraud.

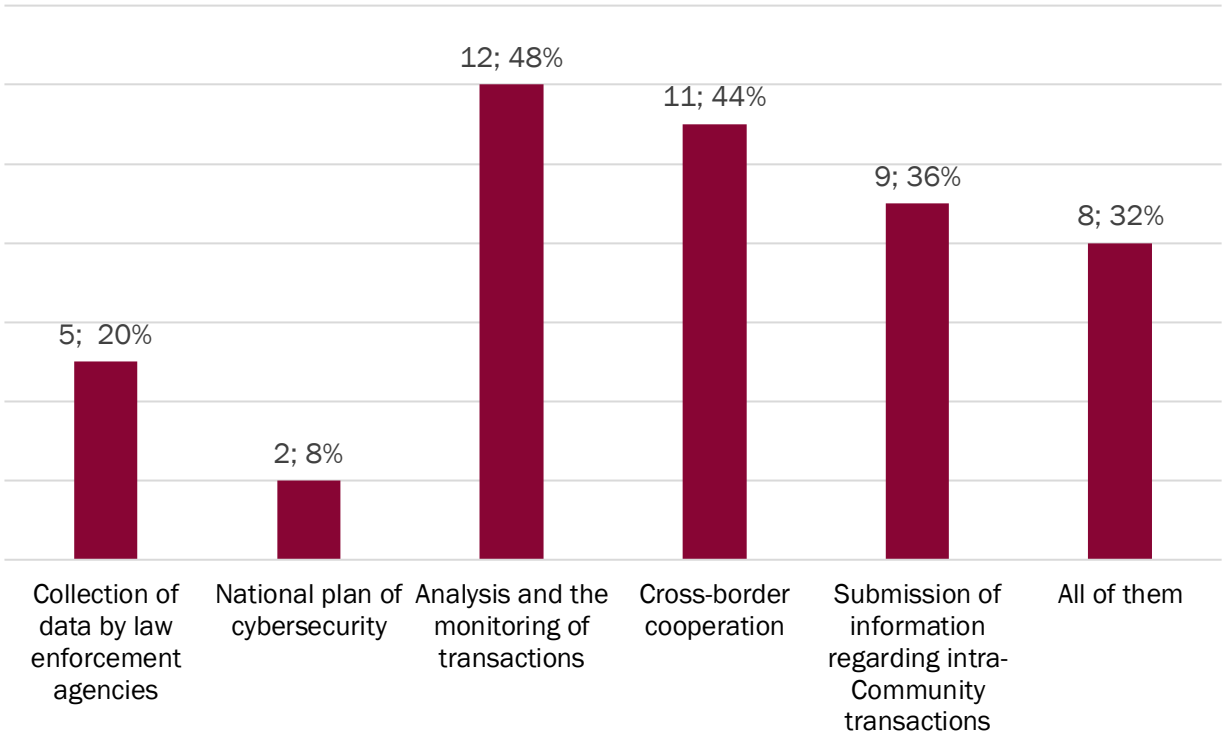
5.2 General considerations

ICT strategies and policies against VAT fraud and cyber VAT fraud

While **all EU Member States (MSs) have developed ICT strategies and policies to combat crime, not all specifically address VAT fraud**, and even fewer focus on cyber VAT fraud. Many MSs

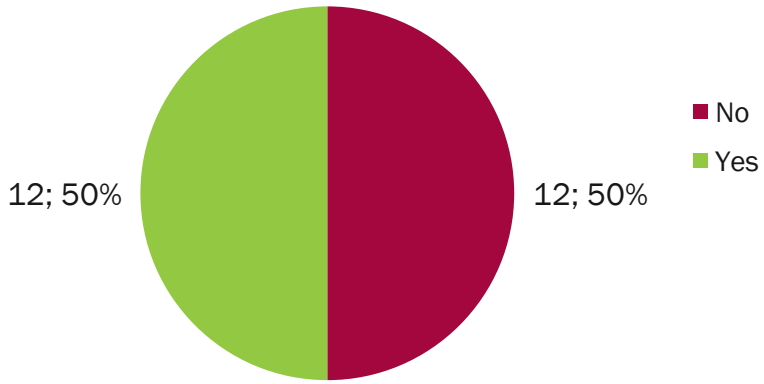
acknowledge a deficiency in effective, targeted policies designed to combat cyber VAT fraud. However, some existing policies **could be leveraged to address this issue**, as noted by national experts.

Fig. 16: Answer to question 14: "Which of the following anti-fraud strategies/policies involving ICT are most effective against cyber VAT fraud?". Absolute number and percentage value of EU Member States. N=25. Year 2024.



Source: elaboration by CSSC – project EU CYBER VAT – questionnaire for National Experts.

Fig. 17: Answer to question 15: "Are there any specific anti-fraud ICT strategies/policies in your country that are particularly useful against cyber VAT fraud?" EU Member States. N=25. Year 2024.

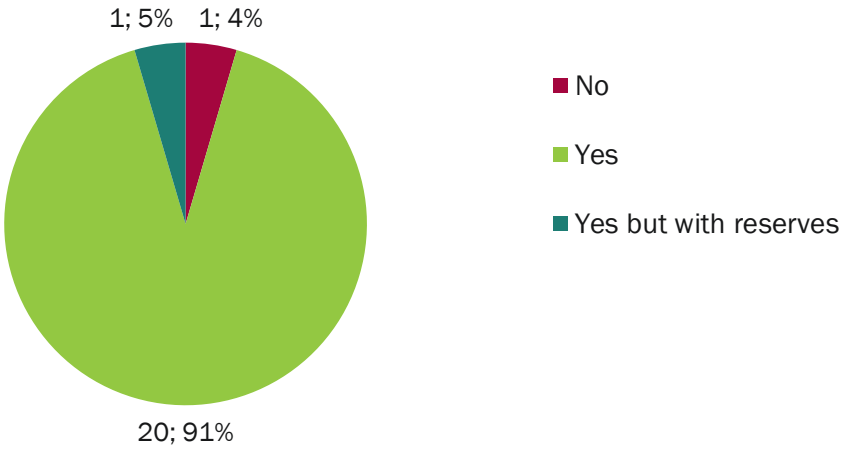


Source: elaboration by CSSC – project EU CYBER VAT – questionnaire for National Experts.

Suggestions and recommendations

Finally, most respondents to the questionnaire agreed that there is a **fragmented legal framework and very different systems for e-invoicing and e-reporting in the various European Member States** and that the standardization of a digital reporting system would be useful against VAT fraud in general and cyber VAT fraud in particular.

Fig. 18: Answer to question 16: "In your opinion, is promoting the introduction of digital reporting obligations that optimize the use of digital technologies, e.g. by introducing some minimum requirements for all EU countries, an effective way to combat VAT and cyber VAT fraud?" EU Member States. N=22. Year 2024.



Source: elaboration by CSSC – project EU CYBER VAT – questionnaire for National Experts.

It is crucial to emphasise that a considerable number of other MSs have identified significant challenges or areas that **require attention, such as the cost and the burden of the application for the business and the care to use in the implementation**: **cooperation** among the states is stressed as the key to making the obligations work more efficiently.

Another relevant strategy against VAT fraud, specifically cyber VAT fraud, is the implementation of **real-time monitoring**. The integration of advanced technologies like AI holds promise, but their ethical and practical implications must be carefully considered.

6. Cyber VAT fraud in the context of e-commerce

This final section examines how **EU Directive 2020/284** and the **VAT Mini One Stop Shop (MOSS) scheme** are implemented at the national level to combat VAT fraud in the context of e-commerce.

According to EU directives, particularly the **EU VAT Directive (2006/112/EC)**, there are **three types of e-commerce**:

- **Business-to-Consumer (B2C) E-Commerce**: This involves transactions where a business sells goods or services directly to consumers. For VAT purposes, this is important because it determines the place of taxation and compliance requirements. Under the EU VAT rules, businesses engaged in B2C e-commerce are subject to VAT in the member state where the goods or services are consumed.
- **Business-to-Business (B2B) E-Commerce**: This type refers to transactions where businesses sell goods or services to other businesses. B2B transactions are usually subject to VAT in the country where the buyer is located, and the reverse-charge mechanism can be applied in certain cases, particularly within the EU.
- **Consumer-to-Consumer (C2C) E-Commerce**: This refers to transactions between consumers, often facilitated by online platforms. While these transactions are typically exempt from VAT, the role of the platform provider may require compliance with VAT obligations if they act as intermediaries in facilitating the sale of goods or services.

In addition to these, the **EU VAT Directive** also recognizes the role of **online marketplaces** that facilitate the sale of goods between sellers and buyers. These platforms may have specific VAT obligations under the "Marketplace VAT" rules introduced by the EU in 2021. This includes obligations to collect and remit VAT for sales facilitated on their platform, even if they are not directly involved in the sale.

The development of electronic commerce (e-commerce) has enabled individuals and businesses to buy and sell an increasing volume of both physical and digital goods, as well as services, electronically. However, this growth comes with a heightened risk of tax evasion and fraud.

VAT fraud in e-commerce can take various forms exploiting the complexity of cross-border transactions and online sales. For instance:

- **Non-registration for VAT**.
  - **Non-EU online sellers** may sell goods or services to EU consumers without registering for VAT anywhere in the EU. This allows them to avoid charging and remitting VAT to EU tax authorities.
  - Some EU-based sellers may also fail to register for VAT, despite exceeding the VAT registration threshold in the country where they are selling.
- **Underreporting sales**.
  - **False reporting:** underreport the actual value of their sales to reduce the amount of VAT they are required to remit.
  - **Falsified invoices:** invoices with false information, such as incorrect sales amounts, to avoid paying the correct VAT.
- **Fraudulent VAT numbers.**
  - **Use of invalid VAT number.**
  - **Omission of VAT number on invoices. E**ven when sellers display European business addresses and VAT numbers on their websites, these details are often omitted from the issued invoices because they are fraudulent.

As **e-commerce continues to grow, legislation and measures aimed at reducing the risks of fraud are also constantly evolving**. The European Commission has introduced several VAT and customs packages.

These new rules target payment service providers (PSPs), such as banks, payment institutions, and postal giro services, which collectively handle the majority of online transactions within the EU. The Organisation for Economic Co-operation and Development (OECD) has already emphasized the important role that platforms and PSPs can play in ensuring the effective enforcement of VAT regulations in the e-commerce sector. For this reason, the measures are increasingly aimed at holding these players accountable.

Regarding **service providers** in e-commerce, the EU has specific rules for digital services under **Directive 2008/8/EC**, which amended the VAT Directive. The definition of "digital services" includes a wide range of electronically supplied services, such as:

- Telecommunications services.
- Broadcasting services.
- Electronic services (e.g., streaming, e-books, software downloads).

For **e-commerce service providers**, the VAT rules depend on the nature of the service and where it is consumed. If a service is provided to a consumer within the EU, the VAT rules require the supplier to charge VAT based on the consumer's location, not the location of the service provider. This is part of the EU's efforts to simplify the VAT process for cross-border digital services, especially under the **Mini One-Stop Shop (MOSS)** scheme, which allows businesses to register in one EU member state and report VAT for sales to customers in other member states.

In general, service providers involved in e-commerce are subject to VAT obligations according to the type of service, the location of the customer, and whether they are selling to businesses or consumers.

This section of the analysis focuses on the obligations of payment service providers (PSPs) and explores mechanisms to enhance their role in detecting and preventing fraud. This section aims to assess how national laws align with EU directives on VAT fraud in e-commerce, the effectiveness of current mechanisms for PSP compliance, and the potential for stronger involvement of payment and service providers in combating VAT fraud.

A specific event (the second online focus group) was dedicated to this discussion topic.

Based on the national responses to the questionnaire, participants were invited to discuss the **legal framework for VAT** fraud (and in particular missing trader intra-community (MTIC) fraud) **in e-commerce** in the Member States in the light of the introduction of new forms of **obligations for payment service providers to prevent VAT fraud** and assess the need for and impact of greater harmonisation in the regulation of cross-border VAT fraud, especially when it occurs in the context of e-commerce.

In particular, reference was made to MTIC VAT fraud in the digital market, the **role and responsibility of platforms** (both from the point of view of obligations and subjective elements) were discussed and finally, considerations were made on the transition from MOSS to the new OSS system.

6.1 Study results

Austria

Austria **has transposed the EU Directive 2020/284** Directive regarding the general obligations of payment service providers[169] and at the same time **has adopted the MOSS scheme**.

Belgium

Belgium **has transposed the EU Directive 2020/284** Directive regarding the general obligations of payment service providers[170].

Belgium is compliant also to **Directive EU 2020/284**, which introduces new **obligations for payment service providers** in relation to the recording and reporting of payment information for cross-border payments as part of the European Union's action plan to combat VAT fraud in e-commerce. These obligations **already existed in the national legislation to a certain extent, but only for banks** [Art. 93 *duodecies* VAT Code]. In 2019, these obligations were removed from the VAT Code. With the implementation of the Directive (EU) 2020/284, new provisions were introduced by the **Act of 7 April 2023 amending the VAT Code regarding the introduction of certain recording and reporting obligations for payment service providers** [Articles 93*duodecies* and following of the VAT Code[171]]. The obligations entered into force on 1 January 2024.

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[169] Transposed by: Bundesgesetz, mit dem das Umsatzsteuergesetz 1994, die Bundesabgabenordnung, das Finanzstrafgesetz und das Bankwesengesetz hinsichtlich der Meldung von Zahlungsdaten durch Zahlungsdienstleister geändert werden (CESOP-Umsetzungsgesetz 2023).

[170] Art. 93*duodecies* and following of the VAT Code.

[171] Art. 93duodecies:
For the application of this chapter, the following terms shall mean:
1° "payment service provider": one of the categories of payment service providers referred to in Article 1, para. 1, points a) to d) of Directive (EU) 2015/2366, or a natural or legal person enjoying an exemption under Article 32 of that Directive.
2° "payment service": any of the business activities described in Annex I, in points 3 to 6 of Directive (EU) 2015/2366.
3° "payment": subject to the exclusions referred to in Article 3 of Directive (EU) 2015/2366, a "payment transaction" as referred to in Article 4, point 5) of that Directive or a "money transfer" referred to in Article 4, point 22) of that Directive.
4° "payer": a "payer" as referred to in Article 4, point 8) of Directive (EU) 2015/2366.
5° "payee" a "payee" as referred to in Article 4, point 9) of Directive (EU) 2015/2366.
6° "home Member State": the "home Member State" as referred to in Article 4, point 1) of Directive (EU) 2015/2366.
7° "host Member State": the "host Member State" as referred to in Article 4, point 2) of Directive (EU) 2015/2366.
8° "payment account: a "payment account" as referred to in Article 4, point 12) of Directive (EU) 2015/2366.
9° "IBAN": "IBAN" as referred to in Article 2, point 15) of Regulation (EU) No 260/2012.
10° "BIC": "BIC" as referred to in Article 2, point 16) of Regulation (EU) No 260/2012.'
Art. 93duodecies/1:
'§ 1. Payment service providers shall keep records of payees and payments relating to payment services they provide for each calendar quarter to enable the competent authorities of the Member States to carry out checks on supplies of goods and services deemed to take place in a Member State in accordance with the provisions of Title V of Directive 2006/112/EC in order to achieve the objective of combating VAT fraud.
§ 2. The obligation referred to in paragraph 1 shall apply only under the following conditions:
1° the payment services provided are related to cross-border payments.

2° the payment service provider provides payment services relating to more than twenty-five cross-border payments to the same payee in the course of a calendar quarter.
For the purposes of 1°, a payment shall be considered a cross-border payment if the payer is located in a Member State and the payee is located in another Member State, in a third territory or in a third country.
For the purposes of 2°, the number of cross-border payments shall be calculated on the basis of the payment services provided by the payment service providers per Member State and per identifier referred to in Article 93duodecies/2, paragraph 2. If the payment service provider has information that the payee has several identification codes, the calculation shall be made per payee.
§ 3. The obligation set out in paragraph 1 shall not apply to payment services provided by the payer's payment service providers for each payment where at least one of the payee's payment service providers is located in a Member State if this is evidenced by that payment service provider's BIC or other business identifier that unambiguously identifies the payment service provider and its location. The payer's payment service providers shall nevertheless take those payment services into account for the calculation referred to in § 2, paragraph 1, 2° and paragraph 3.
§ 4. Where the obligation referred to in paragraph 1 applies, the registers shall be:
1° kept in electronic form by the payment service provider and retained for a period of three calendar years from the end of the calendar year of the payment date.
2° in accordance with Article 24ter of Regulation (EU) No 904/2010, made available to the administration in charge of value added tax to enable it to fulfil its obligations arising from paragraph 3 of that provision, when:
a) Belgium is the home Member State of the payment service provider;
b) Belgium is the payment service provider's host Member State, where Belgium is not its home Member State but it provides payment services in Belgium.'
Art. 93duodecies/2:
'For the application of Article 93duodecies/1, § 2, paragraph 2, and without prejudice to the provisions of Title V of Directive 2006/112/EC, the location of the payer shall be deemed to be in the Member State corresponding to:
1° the IBAN of the payer's payment account or any other identifier which unambiguously identifies the payer and specifies the location of the payer;
2° in the absence of an identifier referred to in 1°, the BIC or any other business identifier which unambiguously identifies the payment service provider acting on behalf of the payer and specifies the location of the payment service provider.
For the application of Article 93duodecies/1, §2, (2), and without prejudice to the provisions of Title V of Directive 2006/112/EC, the location of the payee shall be deemed to be in the Member State corresponding to:
1° the IBAN of the payee's payment account or any other identifier that unambiguously identifies the payee and specifies the location of the payee;
2° in the absence of an identifier referred to in 1°, the BIC or any other business identifier which unambiguously identifies the payment service provider acting on behalf of the payee and specifies the location of the payment service provider.'
Art. 93duodecies/3:
'The registers referred to in Article 93duodecies/1, § 1 shall contain the following information:
1° the BIC or any other business identifier that unambiguously identifies the payment service provider;
2° the name or business name of the payee as it appears in the records of the payment service provider;
3° if available, a VAT identification number or other national tax number of the payee;
4° the IBAN or, if not available, any other identifier that unambiguously identifies the payee and gives the location of the payee;
5° the BIC or any other business identifier that unambiguously identifies the payment service provider acting on behalf of the payee and gives the location of the payee's payment service provider, if the payee receives funds without having a payment account;
6° if available, the address of the payee as it appears in the records of the payment service provider;
7° the details of each cross-border payment referred to in Article 93duodecies/1, § 2, paragraph 1, 1°;
8° the details of any refunds identified as being related to the cross-border payments referred to in 7°.
The information referred to in paragraph 1, 7° and 8°, shall contain the following details:
1° the date and time of the payment or refund;
2° the amount and currency of the payment or refund;
3° the Member State of origin of the payment received by the beneficiary or on his behalf, the Member State of destination of the refund, as the case may be, and the information used to determine the origin of the destination of the payment or refund in accordance with Article 93duodecies/2;

In case of a breach of the VAT Code, various fines are foreseen.

These sanctions are laid down in Article 5 of the Annex to the Royal Decree nr. 44 of 9 July 2012 setting the amount of non-proportional tax fines on value added tax. This legal provision states: €3,000 for first violation related to the correct keeping of the register and increasing amounts for subsequent violations; second violation: € 4,000; subsequent violations: 5,000€.

Failure to comply with the format or with the retention period of the register: 1,000€. If the register does not contain one or more entries or contains incomplete or incorrect entries, a minimum and a maximum monetary penalty are provided, which increases in the case of repeat offenses.

Lastly, there are also various monetary penalties for failure to notify (EUR 2,000 per unnotified piece of information), delayed (EUR 300 per notification per month of delay with a maximum of 3,000 EUR), or incorrect notifications (purely accidental irregularities: 80 EUR; other irregularities: 500 EUR).

Belgium **has adopted the MOSS Scheme, now substituted with the OSS Scheme.**

Finally, Q. 21 of the questionnaire, requested an opinion from the national expert on how could service providers and payment service providers be more involved in the detection and prevention of criminal offenses related to VAT fraud. The Belgian expert answered that **payment service providers are already quite involved in providing information to the authorities**. Before implicating these providers even more in the detection and prevention process, a more pressing question is probably **how to adequately and effectively process all this information**.

Bulgaria

Bulgaria **fully complies with EU Directive 2020/284** regarding the general obligations of payment service providers. **Prior to the implementation of this directive, there were no specific obligations** outlined in national legislation.

In the case of violations, Bulgaria imposes fines ranging from BGN 1,000 (over €500) to BGN 4,000 (over €2,000) for failure to declare or for false declarations. For repeated violations, the fine can increase up to BGN 10,000 (over €5,100)[172].

4° any references that unambiguously identify the payment;
5° where applicable, information showing that the payment was initiated at the merchant's physical location.'
Art. 93duodecies/4:
'The VAT administration shall keep the information referred to in Article 93duodecies/3, in a national electronic system until 31 December of the fifth year following the year in which that information was made available in accordance with Article 93duodecies/1, § 4, 2°, in order to be able to monitor the correct application of the payment service providers' obligations and to be able to aggregate that information with other data already available to carry out targeted tax audits based on risk indicators.'
Art. 93duodecies/5:
'The King shall determine the time when the registers referred to in Article 93duodecies/1, § 4, 2°, are to be made available, as well as the detailed rules regarding the manner in which such provision is made.'

[172] Article 192a. VAT ACT:
(1) A person who, being obliged, fails to declare or falsely declares data under Article 123 (10), or fails to declare such data within the stipulated time limits, shall be liable to a fine or a pecuniary penalty in the amount of BGN 1,000 to BGN 4,000.
(2) In case of a repeated violation under Paragraph (1), the fine or the pecuniary penalty shall amount from BGN 2,000 to BGN 10,000.

Bulgaria has also **adopted the Mini One-Stop Shop (MOSS) scheme**, aligning with EU regulations to streamline VAT compliance for businesses offering cross-border digital services.

According to the national expert, to **further engage service providers in the fight against VAT** fraud, several strategies can be employed. These include:

- launching **media campaigns** for greater awareness;
- fostering **close cooperation with tax authorities**;
- offering various **incentives** to encourage service providers to report suspicious activities.

Such measures can play a crucial role in enhancing compliance and reducing VAT fraud.

Croatia

Croatia **is compliant with EU Directive 2020/284**, regarding the general obligations of payment service providers. **Prior to the implementation of this directive, there were no specific obligations** outlined in national legislation.

In the case of violations, the taxpayer is fined for a misdemeanor of 260 EUR to 66,360 EUR for failure to render available the records on payment, or for delayed declaration[173].

Croatia has **adopted the MOSS Scheme.**

According to the national expert, the obligations foreseen for service providers are already enough. There is also **due diligence provisions related to money laundering**. The upgrade could be to have a **real-time reporting** to the tax administration of all transactions executed in B2B cross border transactions.

Cyprus

Cyprus **complies with EU Directive 2020/284**, which outlines the general obligations of payment service providers. Even before its implementation, **national legislation already included provisions imposing obligations on these entities**[174].

In cases of non-compliance, **penalties include a monetary fine of €20,000 and/or up to 12 months of imprisonment**.

Cyprus has **also adopted the MOSS scheme**.

According to the national expert, service providers and payment service providers should play a more active role in detecting and preventing VAT fraud-related offenses **by utilizing advanced AI tools to enhance fraud prevention**. In Cyprus, any PSP must obtain a license from the Central Bank of Cyprus, which operates under the European Central Bank's guidance. To get licensed, PSPs must undergo a rigorous process involving extensive questionnaires, interviews, and meeting

[173] Article 131 of VAT law:
(1) A taxpayer shall be fined for a misdemeanour in the amount of EUR 260.00 to EUR 66,360.00 if:
30. fails to make available or fails to make available within the time limit laid down in Article 24b of Council Regulation (EU) No – having regard to Regulation (EC) No 904/2010 of 7 October 2010 on administrative cooperation and the fight against fraud in the field of value added tax, the records of the payee and of payments relating to the payment services provided or if fails to provide all the necessary information (Articles 83b(1) and 83d).
[174] Regulation 3(1) pursuant to Paragraph 5A of Schedule Ten.

compliance requirements. This includes appointing executive and non-executive directors, a compliance officer, and an anti-money laundering officer. Compliance with European directives, particularly concerning anti-money laundering (AML) measures, is critical. The licensing process takes between one and two years, ensuring that PSPs have the necessary applications and data in place to combat digital fraud effectively. Ultimately, the license reflects the PSP's adherence to all regulatory requirements, making them better equipped to tackle cyber fraud.

Czech Republic

The Czech Republic **complies with EU Directive 2020/284**, which outlines the general obligations of payment service providers. Even before its implementation, **national legislation already included provisions imposing obligations on these entities[175].**

[175] The rules are implemented in sections 110zz to 110zzj of the VAT Act (no. 235/2004 Coll. Of Law):
§ 110zz:
Definition of basic terms
For the purposes of records on cross-border payments and their payees, the following shall be understood.
(a) a provider of a registered payment service, a person authorized under the law regulating payment transactions to provide a registered payment service, with the exception of the Czech National Bank,
(b) a registered payment service, excluding a payment service
1. enabling the deposit of cash into a payment account held by a payment service provider,
2. enabling cash withdrawal from a payment account held by a payment service provider,
3. the indirect giving of a payment order,
4. providing information about the payment account,
c) a payment transaction under the law regulating payment transactions, if it is carried out within the framework of a registered payment service,
(d) a cross-border payment, where the State of establishment of the payer is a Member State and the State of establishment of the payee is a different Member State or a third country,
(e) a payer as defined by the law governing payment transactions,
(f) a payee as defined in accordance with the law governing payment transactions,
(g) a payment account in accordance with the law governing payment transactions,
(h) the IBAN identifier pursuant to the Regulation of the European Parliament and of the Council establishing technical and business requirements for credit transfers and direct debits in EUR,
(i) The BIC code is pursuant to the Regulation of the European Parliament and of the Council laying down technical and business requirements for credit transfers and direct debits in EUR.
§ 110zza:
State of establishment
(1) For the purposes of recording cross-border payments and their payees, the State of establishment of the payer or payee shall be the State corresponding to
(a) the IBAN identifier of the payment account of the payer or payee or any other identifier that uniquely identifies the payer or payee and their State of establishment or
(b) a BIC or other similar identifier uniquely identifying the registered payment service provider or similar provider under the law of another State acting on behalf of the payer or payee and its State of establishment, where there is no identifier under point (a).
(2) The State of establishment of a provider of a registered payment service or similar provider under the law of another State shall be, for the purposes of recording cross-border payments and their payees, the State corresponding to the BIC code or other similar identifier uniquely identifying that provider and its State of establishment.
§ 110zzb
State of provision of the service
For the purposes of recording cross-border payments and their payees, the rules governing the determination of the place of supply shall not apply to determine the State in which the recorded payment service is provided.
§ 110zzc
Obligation to keep records

(1) A provider of a registered payment service shall be obliged to keep records of cross-border payments and their payees if:
(a) provides in the domestic territory during a calendar quarter a registered payment service corresponding to more than 25 cross-border payments for the same payee and
(b) at least one of the payments referred to in point (a) meets the conditions for keeping records of cross-border payments and their payees pursuant to Section 110zzd.
(2) The number of cross-border payments for the same payee shall be determined by the individual identifiers determining the country of establishment of the payee.
(3) Where the registered payment service provider has information that a payee has several identifiers identifying his/her country of establishment, the number of cross-border payments for such payee shall be determined as the sum of all cross-border payments with these identifiers.

§ 110zzd

The scope of recording

(1) The registered payment service provider of the payee shall keep a register of cross-border payments and their payees containing information on the cross-border payment and its payee if the registered payment service corresponding to that payment is provided domestically.
(2) The registered payment service provider of the payer shall keep records of cross-border payments and their payees where the cross-border payment and its payee are not the Member State of the establishment of any registered payment service provider of the payee or of a similar provider under the legislation of another Member State.

§ 110zze

Data on cross-border payments and payees

The details of a cross-border payment and its payee shall be
(a) the BIC code or other similar identification code which uniquely identifies the provider of the payment service recorded,
(b) the name or business name of the payee as it appears in the records of the registered payment service provider,
(c) the payee's tax identification number or registration number for value added tax purposes as shown in the records of the provider of the registered payment service,
(d) the IBAN identifier or other similar identifier, if no IBAN identifier is available, which uniquely identifies the payee and his State of establishment,
(e) the BIC code or other similar identifier which uniquely identifies the registered payment service provider or similar provider under the law of another State acting on behalf of the payee and its State of establishment, where the payee receives funds without having a payment account,
(f) the address of the payee as it appears in the records of the registered payment service provider; and
(g) details of cross-border payments and details of refunds relating to those cross-border payments, namely
1. the date and time of the cross-border payment or repayment,
2. the amount and currency of the cross-border payment or repayment,
3. the Member State of origin of the cross-border payment received by or for the payee or the Member State to which the payment is returned, and the information used to determine the State of origin of the cross-border payment or the State of destination of the returned payment according to the State of establishment of the remitter,
4. other information that uniquely identifies the cross-border payment; and
5. information indicating that the initiation of the cross-border payment took place at the merchant's premises.

§ 110zzf

Obligation to provide data from records

(1) The provider of a registered payment service shall submit a notification containing data from the register on cross-border payments and their recipients to the tax administrator by the end of the calendar month immediately following the end of the calendar quarter to which the data relate.
(2) Where the last day of the deadline referred to in paragraph (1) falls on a Saturday, Sunday, or public holiday, the deadline shall be that day.
(3) If the provider of a registered payment service discovers that it has provided incorrect or incomplete data in the notification under paragraph (1), it shall, within 5 working days from the date of discovery of the incorrect or incomplete data, submit a subsequent notification to the tax administrator in which it shall correct the deficiencies.

§ 110zzg

Keeping data and obligation to provide data from the register on request

Failure to comply with non-monetary tax obligations under § 247a of the Tax Procedure Code can result in **fines** of up to 500,000 CZK (approximately 20,000 EUR). This applies to individuals who fail to meet registration, reporting, or record-keeping requirements. Additionally, failure to correct filing defects upon notice from the tax administrator incurs a penalty of 1,000 CZK (approximately 40 EUR), which can be increased to 50,000 CZK (approximately 2,000 EUR) if it significantly hinders tax administration. **Fines must be paid within 30 days of notification, and penalties can be imposed within three years of the violation**.

The Czech Republic **has adopted the MOSS Scheme.**

According to the national expert, **platforms** (especially those facilitating accommodation and personal transport) **should pay VAT on behalf of small suppliers or suppliers not established in the EU who use their platform for the provision of their services. Platforms should act as a deemed supplier of services purchased through their webpage**. They **should also provide data on all transactions to tax administrations**.

Denmark

Denmark **is compliant with EU Directive 2020/284**, regarding the general obligations of payment service providers. **Prior to the implementation of this directive, there were no specific obligations** outlined in national legislation.

There are **no specific sanctions for breaches of obligations by payment service providers (PSPs); only the penalties outlined in the VAT Code apply**.

Denmark **has adopted the MOSS Scheme.**

According to the national expert, **digital reporting** would help to further engage the PSPs in the fight against VAT fraud.

The registered payment service provider shall be obliged to keep the data from the register on cross-border payments and their recipients electronically for 3 years from the end of the calendar year in which the cross-border payment was made; the registered payment service provider shall be obliged to submit a notification containing such data to the tax administrator upon his request.
§ 110zzh
Method of submitting the notification
(1) Notifications pursuant to sections 110zzf and 110zzg shall be submitted in a form electronically through the public administration information system administered for this purpose by the Tax Administration authority of the Czech Republic.
(2) A notification made in a manner other than pursuant to subsection (1) shall be ineffective. If the notification is submitted by means of a data message requiring additional confirmation, it shall be confirmed under the conditions specified in the Tax Code within the time limit for submission of the notification.
§ Section 110zzi
Status of the registered payment service provider
The registered payment service provider shall have the status of a taxable subject for the purposes of the records on cross-border payments and their payees.
§ 110zzj
Tax administrator
In the case of records of cross-border payments and their payees, the Specialised Tax Office shall be the tax administrator.

Estonia

Estonia **has implemented the Council Directive (EU) 2020/284**, which introduces new record-keeping and reporting obligations for payment service providers (PSPs) to combat VAT fraud in cross-border e-commerce. Effective from January 1, 2024, Estonian PSPs are required to collect and report information on cross-border payments to the Estonian Tax and Customs Board, which then transmits this data to the Central Electronic System of Payment Information (CESOP). This initiative aims to enhance the detection of potential e-commerce VAT fraud by monitoring cross-border transactions.

Estonia has also adopted the **Mini One Stop Shop (MOSS) Scheme** and its **extension OSS Scheme**.

Finland

Finland is compliant with **EU Directive 2020/284**, which establishes general obligations for payment service providers (PSPs). Even before its implementation, Finnish national legislation already imposed certain obligations on these entities, **though not to the same extent as the Directive**[176].

In case of breach, fines between €2,000 and €15,000 are foreseen [Article 22a[177]].

Finland **has adopted the MOSS Scheme.**

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[176] Article 29.7:
The tax administration can issue more detailed regulations on the information to be provided, the time and method of providing the information, and limit the obligation to provide information in situations that are of minor financial or tax supervisory importance.

[177] Article 22a:
Negligence Penalty (§ 247a Tax Procedure Code)
A negligence penalty of up to €2,000 may be imposed on an entity required to provide information if:

1. There is a minor deficiency or error in the submitted declaration, information, document, or procedure required to fulfill the obligation, and the entity has not corrected it despite receiving a formal notice.
2. The entity delays submission of the required declaration, information, or document without a valid reason.
3. The information is provided in a manner not compliant with legal requirements or contrary to the tax authority's instructions.

If the submitted declaration, information, or document is significantly incomplete or incorrect, or if it is provided only after receiving a formal request, a higher penalty of up to €5,000 may be imposed.
In cases of intentional or grossly negligent non-compliance, such as submitting substantially false information or failing to fulfill an obligation entirely or significantly, the penalty can be up to €15,000.
Additional Considerations:

- The penalty amount considers the scope of the required information.
- The penalty is imposed in full hundreds of euros.
- If the main contractor or general developer fails to provide accurate information due to the negligence of an employer or independent contractor, no penalty is imposed if the tax authority is notified of the failure.
- Natural persons and estates are exempt from penalties unless the negligence concerns business, agriculture, or forestry activities. However, a penalty may still apply to representatives under the Posting of Workers Act or private developers who fail to comply with reporting obligations.
- The penalty is not tax-deductible and is remitted to the state.
- Interest is charged on unpaid penalties as per the law on tax surcharges and late-payment interest.
- If a late fee is imposed under the Income Information System Act, an additional negligence penalty under this section will not be imposed for the same delay.

France

According to the national expert, France **is not compliant with Directive 2020/284, and the transposition is not in progress.**

In addition, there are **no specific provisions assigning responsibility or obligations to payment service providers (PSPs) under French national law**. However, **platforms deemed non-compliant due to repeated tax violations may be included in a "grey list"** as per Article 1740 D of the General Tax Code (CGI)[178]. This measure aims to identify and monitor entities that consistently fail to meet tax obligations, thereby enhancing transparency and compliance within the digital economy.

France **had adopted the MOSS Scheme and its extension OSS Scheme.**

Finally, according to the national expert, French service providers and payment service providers can play a significant role in detecting and preventing VAT fraud by **adopting a proactive and collaborative approach**, implementing robust security measures and collaborating closely with competent authorities, such as:

- **Implementing transaction monitoring systems**.
- **Centralized alerts and suspicious transaction detection.**
- **Data sharing between providers, bans and regulators.**
- **Use data analysis and artificial intelligence techniques to examine large volumes of transaction data and identify anomalies that may indicate possible VAT fraud.**
- **Sharing relevant information and suspicious transaction reports to assist with VAT fraud investigations and enforcement.**
- **They can strengthen their internal controls and due diligence procedures, etc.**

Germany

Germany **complies with EU Directive 2020/284**, which outlines the general obligations of payment service providers. Even before its implementation, **national legislation already included provisions imposing obligations on these entities[179].**

In **case of breach, fines** up to €5,000 are foreseen[180].

Germany **has adopted the MOSS Scheme.**

According to the national expert, **it would be worth considering introducing obligations similar to those for combating money laundering or making better use of the data obtained from the money laundering reporting obligation**. Typically, the same risk criteria are used in both areas to indicate illegal activities.

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[178] Article 1740 D of the General Tax Code:
The list of platform operators deemed non-cooperative due to repeated non-compliance with their tax obligations in France may be published on the tax administration's website for a period not exceeding one year or until full payment of the associated taxes and penalties is made.

[179] § 22 g VAT Act
Introduced by Art. 10 of the Annual Tax Act 2022 Federal Law Gazette I 2022, 229.

[180] Under Germany's Value Added Tax Act (UStG), Section 26a outlines administrative offenses related to VAT compliance. Violations include failing to timely or fully remit advance payments, differences, or assessed taxes; issuing invoices late or not at all; inadequate record-keeping; and failing to submit required reports. Penalties for such offenses can reach up to €30,000, depending on the severity and nature of the violation.

Greece

Article 15D of the Greek Code of Tax Procedures introduces **obligations for payment service providers** (PSPs) to combat Value Added Tax (VAT) fraud. This article was incorporated through Article 5 of Law 5073/2023, which **aligns Greek legislation with Council Directive (EU) 2020/284** of 18 February 2020. **Previously, there were no specific provisions regarding this matter**.

Sanctions for PSPs failing to meet the obligations outlined in Article 15D are specified in Article 54ID of the same Code[181]. These penalties aim to enforce compliance and deter non-compliance among PSPs operating within Greece's tax framework.

Greece **has adopted the MOSS Scheme.**

Finally, according to the national expert, payment services providers should be more involved in the detection and prevention of criminal offenses related to VAT fraud. **Payment services providers should adopt a risk-based approach to identify VAT fraud risks**.

Hungary

Hungary **complies with Directive 2020/284** concerning the obligations of payment service providers (PSPs). Prior to its transposition, certain provisions addressed PSP obligations, notably Articles 183/B to 183/E of the Hungarian VAT Act.

Following the Directive's implementation, the Act on the Rules of Taxation has been amended to enhance compliance measures. Effective from 1 August 2024, the default penalty amounts have been increased, up to HUF 5 million (approximately EUR 12'500) [Article 229/A of the Act CL of 2017[182]].

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[181] Article 54ID of Code of Tax Procedure:
1. Payment service providers who violate Article 15D shall be fined if:
a) they submit the records of par. 2 of article 15D after the deadline,
b) they do not submit the records of par. 2 of article 15D,
c) submit incomplete or inaccurate records of par. 2 of article 15D,
d) do not respond to a request from the Tax Administration for the provision of information or for the completion or correction of information or data referred to in article 15D, within the set deadline,
e) do not cooperate during an audit for compliance with the data submission rules,
f) do not comply with the obligations of payment service providers, regarding beneficiaries and payments, in accordance with paragraphs 2, 3 and 4 of article 15D.
2. The fines for the violations of paragraph 1 are determined as follows:
a) one hundred (100) euros, for each violation of case a΄ , per beneficiary,
b) three hundred (300) euros, for each violation of cases b΄ and c΄ , per beneficiary,
c) one thousand (1,000) euros, for each violation of case d΄ , per beneficiary,
d) two thousand five hundred (2,500) euros, for each violation of case e΄ ,
e) five thousand (5,000) euros, for each violation of case f΄ .
The total amount of fines imposed per compliance check for violation of the obligations of Article 15D cannot exceed the amount of five hundred thousand (500,000) euros.
For the violations of case a΄ of paragraph 1, the total amount of fines, per reference year, cannot exceed the amount of ten thousand (10,000) euros.
3. If the payment service providers commit the same violation, within five years of the finding of the initial violation, the fines of par. 2 shall be doubled. In the event of the same violation being committed again for the third or more times, four times the initial fine shall be imposed, regardless of the time it was committed, subject to the second and third paragraphs of par. 2".

[182] Article 229/A of the Act CL of 2017:
"(1) Failure to comply with the record-keeping obligation pursuant to Section 183/C (1) of the VAT Act, late,

Hungary **has adopted the MOSS Scheme.**

According to the national expert, **besides the reporting obligation, a VAT withholding mechanism could also be introduced** (LATAM example) to involve in further way PSPs in the detection and prevention of criminal offenses related to VAT fraud, however, this might be too burdensome on the sector.

Ireland

Ireland **is compliant with Directive 2020/284.** This was transposed via S.I. No. 650/2023 – European Union (Value-Added Tax) Regulations 2023. It is important to notice that there was an issue of failure to transpose earlier in 2024[183]. **Prior to the implementation of this directive, there were no specific obligations** outlined in national legislation.

There are **no additional sanctions for this new legislation but the usual tax penalties would apply.**

The Irish expert explained that the Revenue Commissioners are experienced professionals with extensive knowledge of corporate matters and the relevant legislation. It is possible that the prosecutor may lack the institutional knowledge required to process this type of crime. In contrast, the revenue authority possesses extensive experience in this domain. Furthermore, the criminal law system is less experienced in prosecuting economic crimes, which are inherently more complex than "conventional" crimes such as assault. This distinction between traditional and non-traditional crimes allows for a division of labor between the revenue authorities and the police and prosecution services. The former are responsible for addressing revenue offenses through their administrative process, while the latter handle more conventional criminal activities. In Ireland, approximately twice a year, the Revenue Commissioners publish a list of individuals who have not paid the requisite tax amount (approximately €12,000-€13,000). This list is disseminated through various print media outlets. This practice is indicative of the fact that the administrative authority, in this case, also serves a shaming function. The publication of names in this manner serves to fulfill the shaming function that is sometimes expected from criminal law.

Finally, the expert underlined that sometimes the problem is the overuse of criminal law, in terms of over-criminalisation.

Ireland introduced, but has since removed, the MOSS scheme. MOSS was applicable in Ireland but was discontinued as of 1st July 2021. Services previously covered under MOSS are **now covered by the One Stop Shop (OSS).**

According to the national expert, perhaps **further efforts in respect of reporting of suspicious transactions or activities could aid the detection and prevention of VAT fraud**. Firstly, encouraging greater use of such processes (even where not necessarily required to do so) could add to the

incorrect or incomplete compliance with the obligation to provide information pursuant to Section 183/C (2) of the VAT Act, and failure to comply with the obligation to provide information pursuant to Section 183/C (2) of the VAT Act, or late, incorrect or incomplete compliance with the obligation to provide information pursuant to Section 183/C (2) of the VAT Act. 183/C (7), the state tax and customs authority may impose a default fine of up to HUF 5 million on the person obliged to keep records, provide data and keep records. (2) No default fine shall be imposed under paragraph (1) if the person required to keep, provide and preserve records excuses his default, delay, defective or incomplete performance by proving that he acted as is normally expected in the given situation."

[183] Regarding an error in the notification sent to the Commission via the Themis system and failure to include a correlation table and explanatory letter. This was rectified as of 29 February 2024.

information available to enforcement bodies in Ireland. Secondly, perhaps such payment service providers **could provide more analysis and reporting regarding the suspicious transactions and activities observed** (e.g. identifying trends, and consolidating findings). In Ireland it is the Central Bank that oversees and monitors Payment Service Providers (PSPs).

Large financial institutions have the capacity to handle reporting and compliance obligations because they are very familiar with the money laundering obligations that are imposed on banks and other institutions, and they simply have divisions within their companies to handle anti-money laundering.

Italy

Italy **is compliant with Directive 2020/284. The transposition took place with Legislative Decree 153/2023. Prior to the implementation of this directive, there were no specific obligations** outlined in national legislation.

Article 2 of the Legislative Decree 253/2023 establishes **the following sanctions for non-compliance with VAT obligations**:

- **Failure to Retain Records:** Violations of record-keeping obligations are subject to administrative fines ranging from €1,000 to €8,000, as outlined in Article 9, paragraph 1, of Legislative Decree No. 471/1997 [Article 40-ter].
- **Failure to Submit Reports:** Violations of reporting obligations incur administrative fines between €1,500 and €15,000, in accordance with Article 10, paragraph 1, of Legislative Decree No. 471/1997. The fine is reduced by half if the report is submitted within fifteen days after the due date. [Article 40-quarter].

Italy **has adopted the MOSS Scheme and its extension the OSS Scheme.**

According to the national expert, **the mechanism of administrative sanctions is more efficient**, its set of legal obligations could be understood as a duty to act on these service providers, and therefore there could be a risk of using this type of legal obligation to hold them responsible for a failure to prevent crime. It is more proportionate and also gives more guarantees to companies, because the administrative penalties, if added together, are very severe and also lead to shameful consequences, as the experts said earlier. **The most crucial aspect from their perspective is the accessibility of the data collected by the service providers to the administrative authority**. This can be achieved by facilitating direct access to the data, for instance through a unified database that is directly accessible by the police.

Latvia

Latvia **complies with Directive 2020/284** concerning the obligations of payment service providers (PSPs). Prior to its transposition, certain provisions addressed PSP obligations, notably Section **147 and 148 of Latvia's Value Added Tax (VAT) Act**[184].

[184] Section 147 Latvia's Value Added Tax (VAT) Act:
Obligation to Maintain Records, Retain, and Provide Information on Payment Recipients and Cross-Border Payments to Prevent Tax Evasion in Cross-Border Transactions
1. For the purposes of this section:
a) Payment Service Provider refers to an entity specified in Section 2, Paragraph 2, Clauses 1, 2, 4, 7, or 8 of the Law on Payment Services and Electronic Money.

For the failure to provide information, inadequate provision of information, or provision of false information to the State Revenue Service, a warning or a fine of up to EUR 700 shall be imposed on a natural person or a board member with or without deprivation of the board member's right to hold specific offices in commercial companies for a period up to three years [Section 3, para 2, Law on Administrative Penalties for Offences in the Field of Administration, Public Order, and Use of the Official Language].

Latvia **has adopted the MOSS Scheme.**

According to the national expert, payment service providers and other service entities could play a more integral role in the detection and prevention of VAT fraud **by being formally designated as obliged entities under the law**. This would entail a legal obligation for these providers to monitor, report, and cooperate with authorities regarding suspicious transactions that may indicate fraudulent activity. By enhancing their role within the regulatory framework, these entities could significantly contribute to the early detection of VAT fraud and strengthen the overall preventive measures.

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b) Payment Service denotes a service outlined in Section 1, Paragraph 1, Subclauses (c), (d), (e), or (f) of the aforementioned Law.
c) Payer is a natural or legal person defined in Section 1, Paragraph 5 of the Law on Payment Services and Electronic Money.
d) Payment Recipient is a natural or legal person defined in Section 1, Paragraph 6 of the same Law.
e) Cross-Border Payment is a payment as described in Section 1, Paragraphs 3 or 9 of the Law on Payment Services and Electronic Money, considering the exceptions in Section 3 of that Law, where the payer resides in one Member State and the payment recipient resides in another Member State, third country, or territory.

2. Payment Service Providers are required to:

a) Maintain detailed records of payment recipients and cross-border payments for each calendar quarter, specifically for those services provided in that quarter to a single payment recipient, if they exceed 25 cross-border payments.
b) Submit the information specified in this section regarding payment recipients and cross-border payments to the State Revenue Service.
c) Retain identification data of payment recipients and details of cross-border payments in electronic format for three calendar years, starting from the end of the calendar year in which the payment was made.

3. If a Payment Service Provider offers payment services in a participating Member State other than Latvia, they are not obligated to provide the State Revenue Service with the information specified in this section regarding payment recipients and cross-border payments.
4. The obligations outlined in Paragraph 2 of this section do not apply to payment services where at least one of the payment recipient's service providers is located in another Member State. However, the payer's Payment Service Provider must include such payments in the count of cross-border payments.
5. The Cabinet of Ministers shall determine:

a) The identification data of legal and natural persons and cross-border payment details to be submitted to the State Revenue Service.
b) The methodology for calculating the number of cross-border payments by Payment Service Providers.
c) The procedures for obtaining, verifying, and submitting information to the State Revenue Service.
d) The manner in which the State Revenue Service processes the information provided in the Centralized Electronic Payment Information System.

Article 148:
Data Protection in the Exchange of Information on Payment Recipients and Cross-Border Payments

1. The State Revenue Service is the controller of data provided to the Centralized Electronic Payment Information System.
2. To ensure the transmission of information about payment recipients and cross-border payments to the Centralized Electronic Payment Information System, both payment service providers and the State Revenue Service process personal identification data and data concerning cross-border payments.

Lithuania

Lithuania **complies with EU Directive 2020/284**, which outlines the general obligations of payment service providers. Even before its implementation, **national legislation already included provisions imposing obligations on these entities[185].**

The Code of administrative offences provides administrative liability in cases where the payment service provider did not comply with the recording/reporting obligations in Lithuania[186].

Lithuania **has adopted the MOSS Scheme.** Moreover, Lithuania **also implemented the One Stop Shop (OSS)** system in 2021. This system is designed to lighten the VAT burden for the businesses engaged in the supply of electronic and other services (whose place of supply is in other EU member states) and make distance sales of goods to non-taxable persons in cases where the supply takes place in more than one EU member state.

According to the national expert, **administrative liability for legal persons is more efficient**, especially from the point of view of procedure: criminal procedure takes a lot of time and effort. In the opinion of the majority of experts, currently the Lithuanian legal system provides enough obligations, as well as rights, which, if used, would make service providers and payment service providers more involved in the detection and prevention of criminal offenses related to VAT and cyber VAT fraud. For, example, according to the Law on Prevention of Money Laundering and Terrorist Financing, some service providers and all payment service providers must provide, *inter alia*, information on suspicious and other identified monetary transactions to the Financial Crimes Investigation Service. Moreover, it should be noted that the Law on Protection of Whistleblowers has been in force in Lithuania since January 1, 2019, which provides for the following main measures to protect, encourage and support persons (including service providers and payment service providers) who have provided information on breaches: 1) securing safe channels for providing information on breaches; 2) ensuring a person's confidentiality; 3) prohibition from adversely affecting a person who has provided information on breaches; 4) right to remuneration for valuable information; 5) right to compensation; 6) ensuring free legal aid; 7) exemption from liability.

For this reason, is **currently more important to assess the effectiveness of the application of the mentioned laws** (especially the Law on Protection of Whistleblowers) **and to identify the strengths and weaknesses of national legal regulation**.

Luxembourg

Luxembourg **is compliant with Directive 2020/284. Prior to the implementation of this directive, there were no specific obligations** outlined in national legislation.

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[185] Laws No. XIV-1659 and No. IX-2112 amending Law on Tax Administration. TAR, 2022-12-22, No. 2022-26363.

[186] Article 188:
Non-compliance with the requirements set for payment service providers
1. Non-compliance with the requirements set forth in the Tax Administration Law of Republic of Lithuania and its implementing legal acts for payment service providers,
imposes fine on managers of legal entity or other responsible persons from 1 800 to 3 800 euros.
2. The administrative offence provided for in paragraph 1 of this Article, committed repeatedly,
imposes fine on managers of legal entity or other responsible persons from 3 800 to 6 000 euros.

In the event of **breaches**, Luxembourg's legislation stipulates **standard fines and sanctions**. According to Article 77 of the Luxembourg VAT law, **administrative fines** can be imposed for various infringements. For instance, intentional inaccuracies in tax returns can lead to fines ranging from 5% to 25% of the evaded taxes. Simple tax fraud carries fines between 10% and 50% of the evaded taxes, while involuntary tax fraud results in fines from 5% to 25% of the evaded taxes. Additionally, aggravated tax fraud and tax fraud are criminal offenses **punishable by imprisonment and substantial fines**, depending on the severity of the offense.

Luxembourg **has applied the MOSS Scheme.**

National experts and EU Commission assessments indicate that **the reporting obligations imposed on Payment Service Providers (PSPs), alongside those of goods and services providers (such as EC sales lists and MOSS), are designed to enhance the early detection and prevention of VAT fraud**. The effectiveness of these measures will become evident once PSPs submit their initial reports by April 30. However, due to technical challenges in reporting across certain countries and the complexities PSPs face in accurately identifying reportable transactions, the initial reporting periods may yield limited insights.

Malta

Malta **complies with EU Directive 2020/284**, which outlines the general obligations of payment service providers. Even before its implementation, **national legislation already included provisions imposing obligations on these entities.**

Article 11 of Legislative Decree No. 272 of 2023, which transposes the EU directive, stipulates that payment service providers (PSPs) failing to submit required information within specified deadlines are subject to **administrative penalties** as outlined in Article 38(2)(c) of the VAT Act. Additionally, if a PSP does not comply with regulatory requirements after receiving two electronic reminders over a three-month period, or submits misleading or false information, senior managing officials of the PSP may face fines ranging from €10,000 to €30,000 per offense. Non-compliance may also result in daily fines of €50 until the issue is rectified[187].

[187] Article 77 of the VAT Code:
"77. Any person who –
(p) being a credit or financial institution which supplies money or grants credit by way of a loan account facility or by means of any other kind of facility to a customer in connection with the supply of goods or services by third parties to that customer for the construction, re-construction, repair, refurbishment or maintenance of immovable property or for fixtures related thereto, and which effects payment for such goods or services either directly to the vendor or supplier thereof or to a third party or to the customer subject to an understanding or to an express or implied condition that the amount paid will be passed on to the said vendor or supplier, by the debit of the customer's loan account or other facility, on the basis of supporting documents, including contracts, invoices, receipts, architects' or other certificates, or similar documents, submitted by or on behalf of the customer or by or on behalf of suppliers, contractors or other third parties, and which fails to inform the Commissioner of the names and VAT registration numbers of the said suppliers, contractors or other third parties as aforesaid, other than the customer, to whom it has directly or indirectly made payments as specified in this paragraph, in the form required by the Commissioner, as well as of the amounts of such payments, by not later than the end of the calendar quarter immediately following the calendar quarter during which it directly or indirectly made any payment as aforesaid, shall be guilty of an offence and shall, on conviction, be liable -
(i) to a fine of not less than six thousand euro (€6,000) and not exceeding ten thousand euro (€10,000) for an offence committed under paragraphs (c) and (d); and
(ii) to a fine of not less than seven hundred euro (€700) and not exceeding three thousand five hundred euro (€3,500) for an offence under the other paragraphs, and in addition, for any offence as above referred to in

Malta **has adopted the MOSS Scheme.**

According to the national expert, in Malta, Service Providers are already overwhelmed with existing reporting obligations. **Adding further reporting obligations would create an excessive burden**.

The Netherlands

The Netherlands **has implemented Directive 2020/284** concerning obligations for payment service providers (PSPs). **Prior to this transposition, Dutch legislation did not include specific obligations in this area**.

Article 41 of the Netherlands' Act on Turnover Tax 1968 stipulates that in the event of a breach, an **administrative fine** from the sixth category may be imposed, amounting to up to 10% of the company's turnover from the previous year[188].

The Netherlands **has adopted the MOSS Scheme.**

The Netherlands' expert highlights that, according to Directive 2020/284, payment service providers are required to provide their tax authorities with information on the payments made through their systems in accordance with Regulation 904/2010 (Art 243b(4)(b)). That Regulation leaves the choice to member states whether they collect the information once every three months, within one month after the quarter ends, or by means of an electronic standard form (Art. 24b(1)). **It would be preferable to introduce an obligatory system comparable to the system of e-invoicing, which automatically and almost in real-time informs the tax authorities of all financial transactions made through the payment services provider**. In that way, the tax authorities would be in a much better position to quickly intervene and act on a suspicion of VAT fraud.

Poland

Poland has **fully implemented Directive 2020/284**, which introduces new reporting obligations for payment service providers (PSPs) to combat VAT fraud. **Prior to this transposition, Polish legislation**

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allparagraphs, except for paragraph (p), where tax amounting to more than one hundred euro (€100) would be endangered, to a further fine equal to two times the endangered tax or to imprisonment of not more than six months or to both such fines and imprisonment:
Provided that, the two times fine for the endangered tax shall in no case be less than one thousand euro (€1,000).
In addition, on a request by the prosecution, the court shall order the offender to comply with the law within a time sufficient for the purpose, but in any case not exceeding one month, and, in default, the offender shall be liable to the payment of a further fine of five euro (€5) for every day on which the default continues after the lapse of the time fixed by the Court."

[188] Act on Turnover Tax 1968 - Article 41:
1. If failure to comply with the obligations referred to in Chapter VI, Section 6 is due to intent or gross negligence on the part of the payment service provider, this constitutes an offense for which the inspector shall impose an administrative fine on him not exceeding amount of the sixth category, referred to in Article 23, fourth paragraph of the Criminal Code.
2. The first paragraph applies mutatis mutandis if a payment service provider provides payment data to the Tax Authorities that relate to fewer than 26 cross-border payments to the same beneficiary in the course of a calendar quarter.
3. The authority to impose the fine referred to in the first paragraph shall lapse, notwithstanding Article 5:45, second paragraph of the General Administrative Law Act, after five years after the end of the calendar year in which the activities referred to in Chapter VI, section 6 obligations have arisen.

already imposed specific obligations on PSPs. The new requirements, effective from 1 January 2024, mandate that PSPs maintain records of cross-border payments and report certain transactions to the Central Electronic System of Payment Information (CESOP). This initiative aligns with the European Union's efforts to enhance administrative cooperation and address VAT fraud in cross-border e-commerce.

The National e-Invoice System (KSeF) is a solution enabling the issuance and sharing of structured electronic VAT invoices. The basic idea was to introduce this solution in two stages. In the initial period, structured electronic invoices were supposed to function as an optional solution. From October to December 2021, a special pilotage–testing period of this solution was conducted with the participation of taxpayers. After its completion, from January 1, 2022, by the Act of October 29, 2021, amending the Act on tax on goods and services and certain other acts (Journal of Laws of 2021, item 2076), the National e-Invoice System was introduced as a voluntary solution. From that moment, it became possible to issue structured electronic invoices within the National e-invoice System (KSeF). At the same time, work was undertaken to introduce mandatory electronic invoicing. The Council of the European Union agreed to this by derogation decision number 2022/1003 of June 17, 2022. Based on this, it was planned to introduce mandatory electronic invoicing from July 2024. However, on June 10, 2024, an amendment to the VAT Act was published (Act of May 9, 2024, amending the Act on tax on goods and services and certain other acts (Journal of Laws of 2024, item 852), which postpones the obligation to issue e-invoices to February 1, 2026. This means that until then, the rules for issuing electronic invoices remain unchanged, issuing structured invoices within the National e-Invoice System (KSeF) is possible but not obligatory

In the event of a breach of the rules of conducting business as a VAT payer, it is possible to remove it from the VAT register. Data of VAT payers are collected in the VAT payer register. The Head of the National Tax Administration keeps an electronic list of VAT subjects that have not been registered by the head of the tax office or that have been removed from the register as VAT payers by the head of the tax office, registered as VAT payers, including subjects whose registration as VAT payers has been restored. Subjects can be checked in the list as of a selected date, falling no earlier than in the period of 5 years preceding the year in which the entity is checked. The list includes, among others: numbers of settlement accounts or registered accounts in the cooperative savings and credit union of which the entity is a member: opened in connection with his business activity and indicated in the identification application or update notification and confirmed using the special STIR electronic system[189].

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[189] Art. 96b goods and services tax act:
1. The Head of the Domestic Fiscal Administration shall keep the lists of the following subjects in electronic form:
1) as regards which the head of a revenue office did not make a registration or which the head of the revenue office removed from the register as VAT payers.
2) registered as VAT payers, including the subjects, the registration of which as VAT payers has been restored.
2. The list is made available in the Biuletyn Informacji Publicznej [Public Information Bulletin] on a dedicated website of the office providing support to the minister competent for public finance in such a manner as to enable to verify whether the subject is contained in the list as at a selected date falling not earlier that within 5 years preceding the year in which the subject is subject to verification. The data of this subject shall be made available pursuant to the condition as at the selected date, excluding the data made available pursuant to the condition as at the day of making the verification.
3. the list shall include the following data of the subjects referred to in paragraph 1:
1) the name (business name) or forename and surname.
2) the number by means of which the taxpayer has been identified for tax purposes, provided that such a number has been assigned.

According to the national expert, Poland **has not applied the MOSS Scheme.**

The expert highlights that in Poland, **administrative tools are employed**, albeit with considerable rigidity. This is due to the presence of internal legislation that empowers the tax authority to automatically block transactions within the financial system in instances of suspected fraud. The duration of such blocks may extend to either 72 hours or three months. The proportionality of this system is a subject of ongoing debate in Poland.

Portugal

Portugal **complies with Directive 2020/284**, which was **transposed** into national law through **Law No. 81/2023**, published on December 28, 2023, and effective from January 1, 2024. This law imposes obligations on payment service providers (PSPs) to maintain electronic records of cross-border payments and their beneficiaries for three years. Specifically, PSPs executing more than 25 cross-border payments to the same payee within a quarter are required to report this information quarterly to the Tax and Customs Authority (AT). The reporting is done using standardized electronic forms, as defined by Portaria No. 81/2024/1, published on March 5, 2024. **Prior to this legislation, there were no provisions requiring PSPs to report such data**. **Non-compliance with these obligations can result in administrative fines**, as outlined in Articles 117 and 119-B of Law No. 15/2001.

Portugal **has adopted the MOSS Scheme.**

In order to involved in further way the PSPs on the fight against VAT fraud, the national expert suggested a first **consensual approach, leaving the punitive response for a later stage**, in

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2a) the status of the subject:
a) as regards which the registration was not made, or which has been removed from the register as a VAT payer.
b) registered as an "active VAT payer" or an "exempt VAT payer", including the subject, the registration of which has been restored.
3) the REGON identification number, if one has been assigned.
4) repealed.
5) the number in the National Court Register, if one has been assigned.
6) the address of the seat – in the case of a subject other than a natural person.
7) the address of the permanent place of pursuit of activity or the place of residence address in the case of the lack of the permanent place of pursuit of activity – with regard to a natural person.
8) the forenames and surnames of persons being members of the body authorized to represent the subject and their tax identification numbers.
9) the forenames and surnames of procurators and their tax identification numbers.
10) the forename and surname or business name (name) of the shareholder and his tax identification number.
11) the dates of registration, refusals of registration or striking off the register and restoring the registration as a VAT payer.
12) the legal grounds for refusals of registration or striking off the register and restoring the registration as a VAT payer, respectively.
13) the numbers of settlement accounts referred to in Article 49, paragraph 1, subparagraph 1 of the Act of 29 August 1997 – Banking Law, or personal accounts in a cooperative savings and credit fund, of which the subject is a member, opened in connection with the economic activity conducted by the member:
a) such settlement accounts being indicated in a notification of identification particulars or notification of updating particulars and
b) confirmed with the use of the STIR within the meaning of Article 119zg, subparagraph 6 of the Tax Ordinance, except for the accounts maintained by the National Bank of Poland.

accordance with the teachings of John Braithwaite, an Australian criminologist who served as a supervisor at the Australian tax authority and has published several studies on this subject.

Romania

Romania **has fully complied with Directive 2020/284**. **Prior** to its transposition, Romanian national legislation **did not impose specific recording or reporting obligations on payment service providers** (PSPs).

Article 59 of the Tax Procedure Code outlines the general obligation of taxpayers to provide information to the tax authority:

- **Periodic Reporting:** Taxpayers must periodically furnish the central tax authority with information regarding their activities.
- **Reporting by Electronic Interface Providers:** Taxpayers offering electronic interfaces facilitating online business transactions are required to report information on transactions conducted through these platforms.
- **Data Submission:** The information is submitted based on a declaration issued by the taxpayer.
- **Regulatory Details:** The specifics regarding the nature of the information, reporting frequency, and declaration formats are approved by an order from the President of the National Agency for Fiscal Administration (NAFA).

Following the adoption of Government Emergency Ordinance No. 67/2022, additional amendments were made to Article 59:

- **Postal Service Providers' Reporting Obligations:** Postal service providers delivering items with cash-on-delivery features must monthly report specific data to the central tax authority.
- **Information to be Reported:** Details include registration number, mailing date, sender's identification, recipient's name, shipping and delivery addresses, and the value of the delivered goods.
- **Data Retention:** The reported data must be stored for five years from receipt by the tax authority, after which they are automatically deleted.
- **Data Subject Rights:** Individuals whose data are processed have rights as per Regulation (EU) 2016/679 on data protection.

To implement these provisions, NAFA's President issued Order No. 1644/2022, which:

- **Approves the Model and Content:** Sets the format for the informative declaration regarding cash-on-delivery postal items.
- **Details Submission Procedures:** Provides instructions on completing and submitting the declaration.
- **Regulates Data Handling:** Ensures personal data processing aligns with data protection regulations.

This order came into force upon publication, with reporting obligations for postal service providers commencing on January 30, 2023.

According to NAFA's semiannual report, in June 2023, the tax authority issued 2,851 notifications to individuals who received funds via postal service providers, totaling RON 475.02 million. These

notifications reminded recipients of their obligation to submit income tax returns by May 25 of the following year.

Regarding **sanctions for non-compliance**, the new law does not specify particular penalties for PSPs failing to meet the CESOP reporting obligations. Instead, such failures fall under the **general provisions of the Tax Procedure Code**. Article 336 of the Code stipulates **fines** for taxpayers who do not submit required information to tax authorities within established deadlines. The fines range from RON 1,000 (approximately 200 EUR) to RON 5,000 for medium and large taxpayers, and from RON 500 (approximately 20 EUR) to RON 1,000 for other taxpayers.

Additionally, Law No. 126/2024 introduces stricter penalties for acts of tax evasion, including **criminalization of certain offenses** and increased prison sentences.

Romania **has adopted the MOSS Scheme and its extension OSS Scheme.** The national expert declared that the OSS is more efficient than the MOSS scheme but both are a step forward in the collection of VAT, which also reduces the burden on taxpayers. It would be better to have them mandatory and not optional.

Finally, according to the national expert, while Romania has established **robust reporting requirements for PSPs, ongoing efforts are necessary to bolster the tax authority's capacity to effectively interpret and utilize the information provided**. Continued investment in **training, system enhancements, and international collaboration** will be crucial to fully harness the potential of these data in combating tax fraud.

Slovakia

Slovakia is **fully compliant with Directive 2020/284. Even before the implementation, the national legislation foreseen obligation for the PSPs**[190].

[190] Law no. 222/2004 Coll. of the Value Added Tax Act - § 70a:
Payment service providers
(1) For the purposes of this provision
a) the provider of payment services is the provider of payment services according to a special regulation, 28h)
b) a domestic payment service provider is a payment service provider according to letter a), whose home Member State or host Member State is the country,
c) a payment service is a payment service according to a special regulation, 28i)
d) payment is a payment operation28j) or money transfer,28k)
e) the payment provider is the payer according to a special regulation, 28l)
f) the recipient of the payment is the recipient, 28m)
g) the home Member State is the home Member State according to a special regulation, 28n)
h) the host member state is the host member state according to a special regulation, 28o)
i) a cross-border payment is a payment if the payment provider is located in a member state determined pursuant to paragraph 6 and the recipient of the payment is located in another member state or in a third country determined pursuant to paragraph 7.
(2) The domestic payment service provider is obliged, for the purpose of carrying out control of the delivery of goods or the delivery of a service with a place of delivery in the territory of the European Union, to keep records according to paragraph 8 on the recipient of the payment of the cross-border payment and on the cross-border payment in connection with the payment service provided, namely for the period of the calendar quarter during which he provided payment services corresponding to more than 25 cross-border payments to the same payee. The number of cross-border payments according to the first sentence is determined according to the payment services provided by the domestic payment service provider and according to the identifiers listed in paragraph 7. If the domestic payment service provider has information that the payee has several identifiers, the number of cross-border payments is determined according to the payee.

For non-fullfilment of tax obligations, the tax administrator imposes or collects a fine on the tax subject for an administrative offense if:

j) does not fulfill any of the obligations of a non-monetary nature according to this Act, while it is not an administrative offense according to letters a) to i), e.g. failure to submit a summary statement, report - fine from 60 euros to 3,000 euros.

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(3) The obligation according to paragraph 2 applies to the domestic payment service provider
a) payee,
b) the payment provider, if none of the payee's payment service providers is located in the territory of the European Union.
(4) In order to determine the number of cross-border payments according to paragraph 2, the domestic payment service provider of the payment provider according to paragraph 3 letter b) obliged to include all payment services provided to the payment provider that correspond to cross-border payments to the same payee.
(5) The domestic provider of payment services according to paragraph 3 is obliged
a) keep records according to paragraph 8 in electronic format for a period of three calendar years from the end of the calendar year in which the payment was made,
b) to make available to the financial directorate by electronic means the records according to paragraph 8 through an electronic form no later than the end of the calendar month following the calendar quarter to which these records relate according to a special regulation. 28p)
(6) For the purposes of this provision, the location of the payment provider that makes the cross-border payment is considered to be the Member State identified under
a) IBAN of the payment provider's payment account or any other identifier that determines the payment provider and its location, or
b) BIC or any other business identification code that determines the payment service provider acting on behalf of the payment provider and its location, if identifiers according to letter a) are not available.
(7) A member state or a third state identified by
a) IBAN of the payee's payment account or any other identifier that determines the payee and his location, or
b) BIC or any other business identification code that determines the payment service provider acting on behalf of the payee and its location, if identifiers according to letter a) are not available.
(8) The records according to paragraph 2, which the domestic payment service provider is obliged to keep according to paragraph 3, must contain
a) BIC or any other business identification code that identifies the payment service provider,
b) name and surname of the payee or trade name or name of the payee, listed in the records of the payment service provider,
c) tax identification number or national tax number of the payee, if available,
d) IBAN or any other identifier that determines the payee and his location, if the IBAN is not available,
e) BIC or any other business identification code that identifies the payment service provider acting on behalf of the payee and its location, if the payee receives funds and does not have a payment account,
f) the address of the payee, if available, listed in the records of the payment service provider,
g) data on all cross-border payments according to paragraph 2,
h) data on returned payments related to cross-border payments according to letter g).
(9) In the case of data according to paragraph 8 letter g) shall be stated
a) date and time of payment,
b) amount and currency of payment,
c) the Member State of origin of the payment accepted by the payee or received on behalf of the payee, and the type of identifiers according to paragraph 6 used for the purpose of determining this Member State,
d) any information that identifies the payment,
e) information about the payment made on the premises of the supplier of goods or services, if the payment service provider is aware of it.
(10) In the case of data according to paragraph 8 letter h) shall be stated
a) date and time of payment refund,
b) the amount and currency of the returned payment,
c) the Member State of destination of the returned payment and the type of identifiers according to paragraph 6 used for the purpose of determining this Member State.

For the commission of an administrative offense, the tax administrator imposes fines, while he does not impose a fine if it does not exceed 5 euros, and if the tax administrator is a municipality, if it does not exceed 3 euros.

With the amendment to the tax code effective from 1 January 2024, the tax administrator takes into account the severity, duration, and consequences of the illegal situation and the tax reliability index when determining the amount of the fine. The tax office or the customs office will not impose a fine, the amount of which can be determined within the established range, for the first violation of the obligation, the institute of the so-called "second chance". It will be used for the imposition of a fine if the fact decisive for the imposition of the fine occurred after 31.12.2023.

According to the national expert, Slovakia **has not adopted the MOSS Scheme;** and it is **not necessary to involve more PSPs on the fight against VAT fraud**.

Slovenia

Slovenia **is compliant with Directive 2020/284**. The implementation came into force on 1 January 2024.

Regarding the Mini One-Stop Shop **(MOSS) scheme**, Slovenia has been **proactive in adopting electronic invoicing and reporting obligations**.

Spain

Spain **complies with Directive 2020/284**, which was transposed into national law through Law 11/2023, Section III. These provisions came into force on January 1, 2024. **Prior to this, Spanish legislation did not impose obligations on Payment Service Providers** (PSPs). As a result of this implementation, PSP obligations are now outlined in Articles 166 ter to quinquies of the VAT Law (Law 37/1992 of December 28, 1992, as amended by Law 11/2023 of May 8) and are further detailed in Articles 62 ter and 81a of the VAT Regulation (Royal Decree 1624/1992 of December 29, 1992, approving the Value Added Tax Regulation, as amended by Royal Decree 1171/2023 of December 27).

Non-compliance with these obligations constitutes a tax infringement under Article 200.1(c) of the General Tax Law (Law 58/2003 of December 17, 2003), which addresses failures to maintain required accounting records and systems. Penalties for such infringements include:

- **A fixed pecuniary fine** of €150.
- For **serious breaches, a proportional fine of 1%** of the offender's turnover for the relevant financial year, with a minimum of €600.

Additionally, manufacturing, producing, marketing, or possessing accounting software that allows for the manipulation of financial records is considered a serious tax infringement under Article 201 bis of the General Tax Law. Penalties for this include fines ranging from €50,000 to €150,000.

It's important to note that the possession of non-compliant accounting software by users is also subject to penalties, which can range from €1,000 to €50,000, depending on the severity of the non-compliance.

Spain **has adopted the MOSS Scheme.**

According to the national expert, financial service providers are in a privileged position to identify suspicious activities related to VAT fraud due to their access to detailed financial data and transactions. Therefore, financial service providers can be of great help in the fight against tax fraud if they cooperate with the authorities in this regard. However, encouraging such collaboration can be difficult. Some suggestions could include:

- **provide training to employees of financial service providers** so that they are alert to potential indicators of VAT fraud and know how to report them properly.

Consequently, **establish procedures for financial service providers to report any suspicious activity** to the competent authorities.

Sweden

Sweden is **compliant with Directive 2020/284. Before this, Swedish legislation did not impose obligations on Payment Service Providers** (PSPs).

In Sweden, **administrative sanctions are imposed on payment service providers (PSPs) that fail to meet record-keeping and reporting obligations**. Two distinct charges apply:

- **Documentation Charge (Record-Keeping Charge).**
    1. **Rate:** 0.3% of the PSP's turnover from the previous financial year.
    2. **Minimum:** SEK 3,000.
    3. **Maximum:** SEK 3 million.
    4. **Condition:** Applied when a PSP fails to maintain the required records.
- **Reporting Charge.**
    1. **Rate:** 0.1% of the PSP's turnover from the previous financial year.
    2. **Minimum:** SEK 1,000.
    3. **Maximum:** SEK 1 million.
    4. **Condition:** Applied when a PSP fails to submit the required reports within the specified timeframe.

Both charges are mutually exclusive within the same reporting period; only one can be levied, depending on the nature of the non-compliance.

Sweden **has adopted the MOSS Scheme.**

According to the national expert, it would be better to have this adoption mandatory and not optional. Additionally, when **new reporting requirements are introduced, they usually require significant initial adaptation of IT and reporting systems, which can be costly**. However, once the systems are in place, the ongoing burden is minimal.

It would be very important to improve **PSPs sharing information**, as it can be valuable in combating VAT fraud since PSPs already possess much of the necessary data.

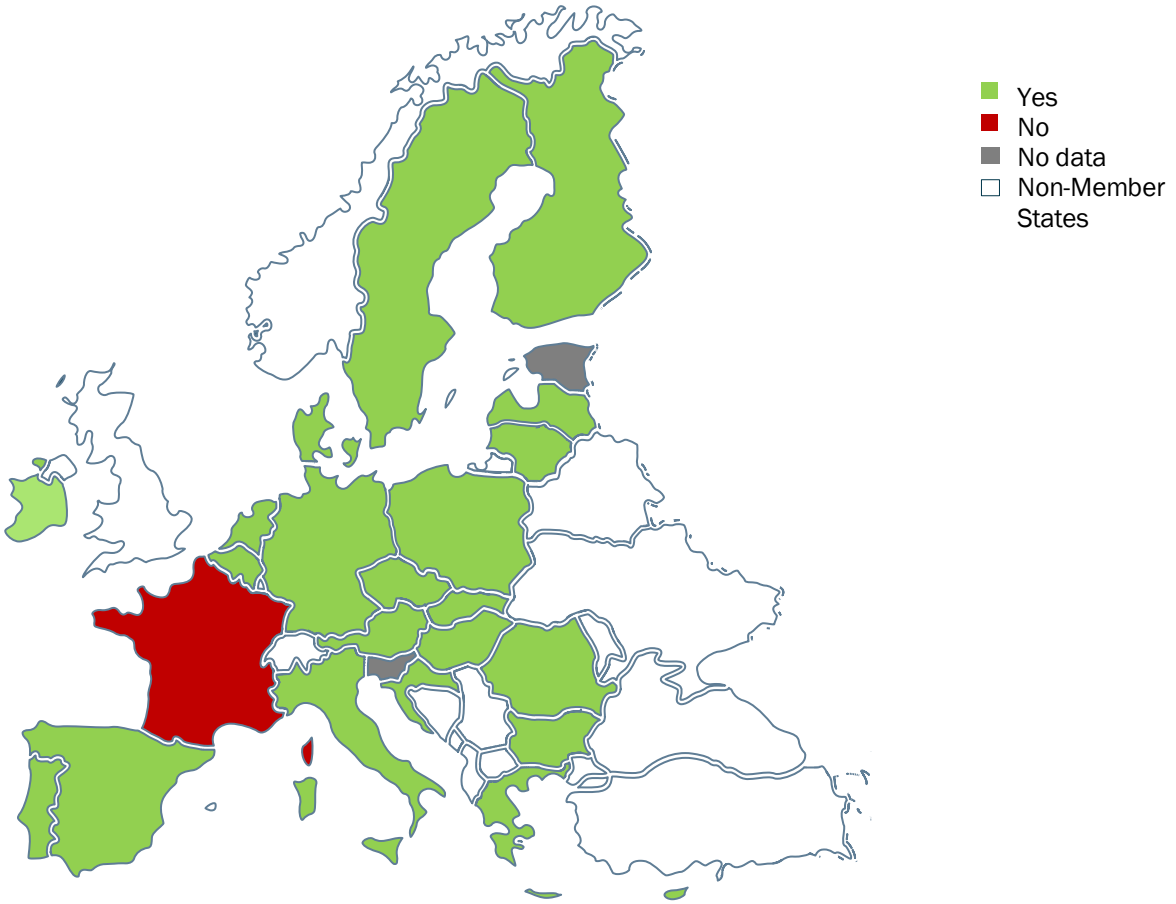
In Sweden, **the decisions of the tax authorities are publicly available for all to see**, and therefore you can actually control them. Finally, another suggestion can be to **extend the OSS Scheme to all B2C transactions within the EU. Collaborate with more non-EU countries with the aim of enabling the application of OSS also with some non-EU countries**, for example with Norway, Island and Lichtenstein, and maybe Switzerland.

6.2 General considerations

Compliance with EU Directive 2020/284

Directive EU 2020/284 introduces new rules for payment service providers (PSPs) to fight VAT fraud in e-commerce. It requires PSPs to record and report details of cross-border payments within the EU, keeping detailed records of the payer, payee, and transaction data, which can be shared with tax authorities to monitor VAT compliance. **All the responding MSs are compliant** with EU Directive 2020/284, except **France**.

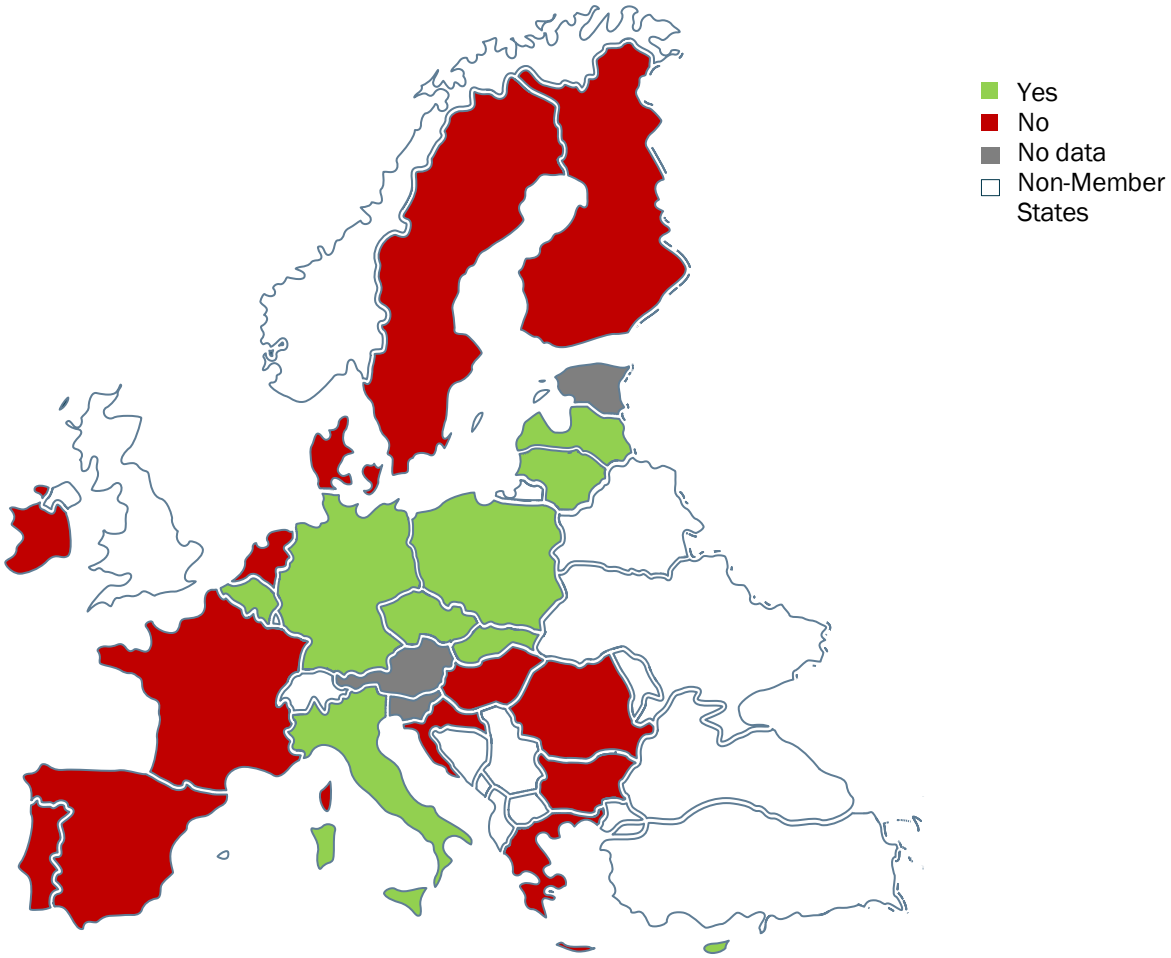
Fig. 19. Answer to question 17: "Is the national law of your country compliant with EU Directive 2020/284 Directive regarding the general obligations of payment service providers?" EU Member States. N=25. Year 2024.



Source: elaboration by CSSC – project EU CYBER VAT – questionnaire for National Experts.

Most of the responding MSs (15: **Bulgaria, Croatia, Denmark, France, Finland, Greece, Hungary, Italy, Ireland, Luxembourg, Portugal, Romania, Spain, Sweden, and The Netherlands**) did not already have recording/reporting obligations for PSPs in place before the implementation of Directive 2020/284. However, 9 MSs had already established such requirements (Fig. 20).

Fig. 20. Answer to question 18: "Directive EU 2020/284 introduces new obligations for payment service providers in relation to the recording and reporting of payment information for cross-border payments as part of the European Union's action plan to combat VAT fraud in e-commerce. Were these recording/reporting obligations already provided for in your national legislation?" EU Member States. N=25. Year 2024.



Source: elaboration by CSSC – project EU CYBER VAT – questionnaire for National Experts.

Sanctions in case of violations of PSPs' obligations

With regard to the sanctions foreseen in case of violation of PSPs' obligations, the responses to this question reveal **a range of administrative and criminal penalties, fines, and legal repercussions**. Commonly, the amount of which depends on the severity and frequency of the offense. Here is a summary of the sanctions imposed by the responding MSs:

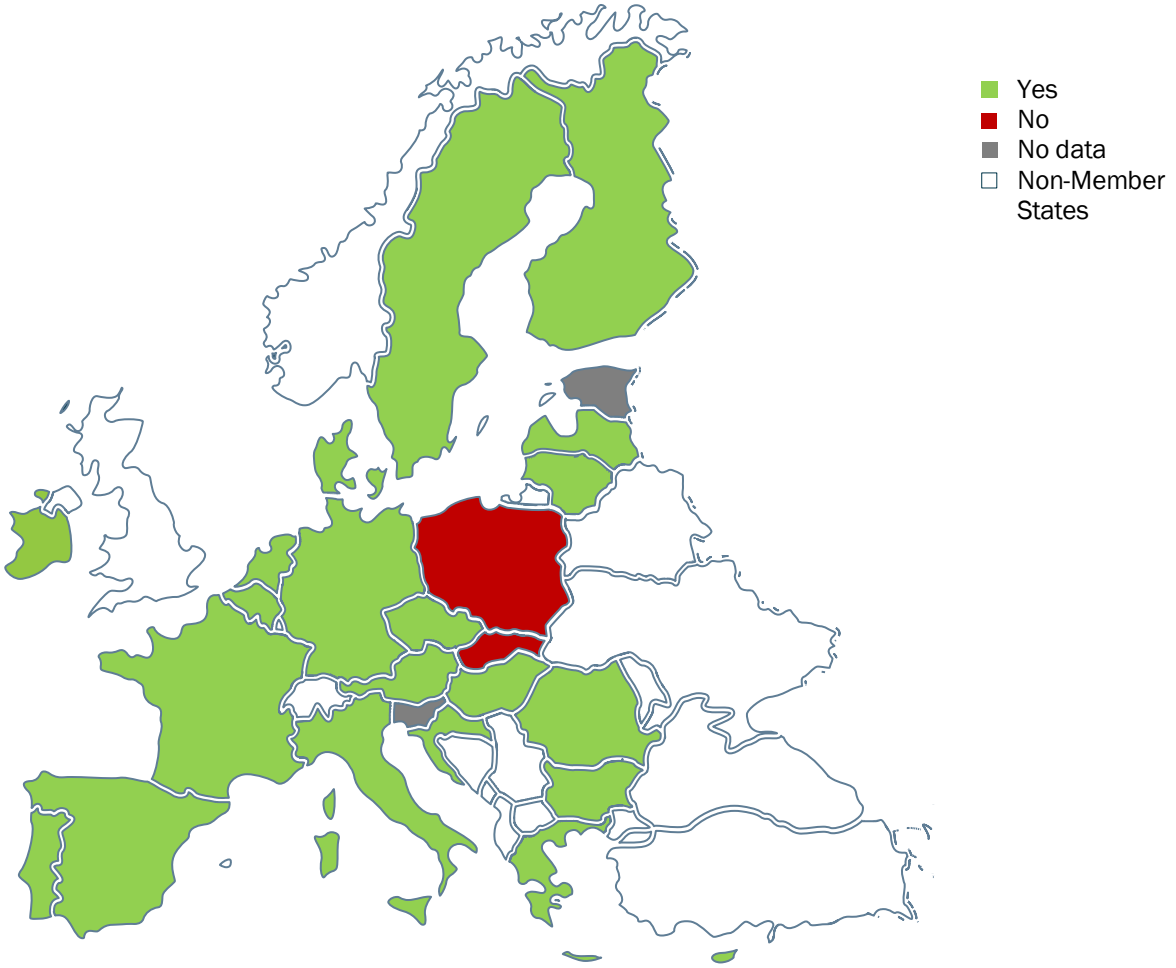
The common feature of these countries is the imposition of fines, with the amount of the fine varying depending on the type and frequency of the offense. Some countries also provide for non-monetary sanctions, such as imprisonment or public listing of non-compliant companies. The differences lie in the specific amounts and the additional sanctions for continued non-compliance. The most important aspects are the financial implications and the emphasis on administrative sanctions to enforce compliance.

MOSS and OSS schemes

Almost all MSs have introduced the MOSS scheme, except for **Poland** and **Slovakia.**

In most cases, services previously covered under MOSS are now covered by the One Stop Shop (OSS).

Fig. 21. Answer to question 20: "The VAT Mini One Stop Shop (MOSS) is an optional scheme that allows you to account for VAT, which is normally due in multiple EU countries, in just one EU country. Has your country introduced the MOSS scheme?" EU Member States. N=25. Year 2024.



Source: elaboration by CSSC – project EU CYBER VAT.

Suggestions and recommendations

It was asked to national experts their opinion on how to involve more the PSPs to fight and prevent VAT fraud. The responses to this question reflect a mixture of perspectives, with common suggestions and notable differences.

Many countries, including **Malta**, **Lithuania,** and **Luxembourg**, point out that service providers already have significant reporting obligations and that the focus should be on making effective use of existing data rather than introducing new requirements, according to the national experts consulted. On this point, **Hungary** cautions against adding more reporting obligations, citing the existing heavy burden on service providers and the effectiveness of the current systems. **Romania**

and **Belgium** argue that the main problem is not the lack of information, but the capacity of the tax authorities to process and interpret the large amount of data already provided.

Finland and **Lithuania** take the same view, stressing the importance of assessing the effectiveness of the current legal and reporting framework before introducing new obligations.

The Netherlands' expert highlights that under Directive 2020/284, PSPs are required to report transaction information to the tax authorities, with Member States deciding on the frequency of reporting: the introduction of a mandatory system similar to e-invoicing, where PSPs automatically report all financial transactions to the tax authorities in real-time, would allow authorities to quickly detect and respond to potential VAT fraud.

Finally, according to **Latvia**, PSPs and other service entities could play a more integral role in the detection and prevention of VAT fraud by contributing significantly to the early detection of VAT fraud and strengthening overall preventive measures.

Several countries, such as **Spain** and **France**, reiterate the need for training employees of financial institutions to recognize and report suspicious activities.

Sweden and the **Czech Republic** propose expanding the OSS (One Stop Shop) mechanism and making platforms act as deemed suppliers to simplify VAT collection and reduce fraud opportunities.

Some interesting suggestions come from **Greece** and **Germany** which advocate for adopting risk-based approaches similar to those used in anti-money laundering efforts, leveraging similar risk criteria to detect illegal activities.

Croatia suggests having a real-time reporting to the tax administration of all transactions executed in B2B cross-border transactions.

The need for better collaboration between service providers and authorities is underscored by responses from **Spain**, **France**, and others, suggesting structured communication channels and shared responsibilities.

During the second focus groups, it was underscored the need for a **balanced approach to PSPs obligations**, focusing on effective compliance measures, data accessibility, and an efficient liability framework to combat VAT fraud effectively. As the new storage and reporting obligations for PSPs are a recent change, not yet effective in many Member States, further discussions are needed to refine these strategies and ensure alignment between Member States.

Finally, several experts agreed that **moving to a mandatory OSS system would facilitate better VAT collection** and compliance and promote greater consistency across Member States. Further dialogue on this point will be essential and participants are therefore invited to reflect on this issue and to send us their comments in response to the minutes of this meeting.

7. Conclusions

Nearly all countries comply not only with the PIF Directive but also with other legislative provisions aimed at safeguarding EU financial interests. In most instances, Member States demonstrate a collaborative approach with the EPPO and other EU recommendations designed to protect these interests, including the defense of their national revenues.

This research aims to investigate how emerging challenges, particularly cyber VAT fraud, are being addressed at both the national and EU levels. With the exception of Cyprus, most countries lack specific legal provisions addressing cyber VAT fraud, as it is not classified as a distinct criminal offense but is subsumed under the general framework for traditional VAT fraud offenses. It is also noteworthy that not all countries define VAT fraud as a separate criminal offense either; in many jurisdictions, VAT fraud is subsumed under broader categories, such as general fraud or tax evasion.

Despite these variations, the distinction between VAT fraud and tax evasion remains clear: tax evasion involves illicit activities aimed at reducing or eliminating tax obligations, typically through the intentional non-payment of taxes owed. It occurs when an individual or business underreports income, or assets, or fails to remit due taxes in an effort to lower their tax burden. This constitutes a direct violation of tax laws but does not necessarily entail falsification or deception in tax documentation. VAT fraud, conversely, exceeds mere evasion and involves fraudulent actions aimed at unlawfully obtaining an advantage through VAT. Examples include:

- falsifying invoices to claim undue VAT refunds.
- using false invoices to reduce VAT payments.
- creating fictitious transactions to claim VAT credits.

In traditional carousel fraud schemes, for example, third-party intermediaries—commonly referred to as "missing traders"—are often involved in orchestrating fictitious transactions and exchanges. Beyond these differences between the legal systems of individual Member States, the conducts outlined in Article 3 of the PIF Directive are generally punishable under national law.Fraud remains the second-largest illicit market for organized crime groups, allowing them to execute large-scale operations that inflict significant financial harm. Consequently, international cooperation and coordination are paramount in addressing these crimes effectively.

Rather than creating new legal provisions, the focus has shifted to enhancing procedural frameworks: the development of more tools, the integration of advanced technologies, and the promotion of greater uniformity across these mechanisms. This approach is particularly critical as many of these frauds are transnational in nature, with criminals exploiting gaps in legal harmonization. Proposals also stress the necessity of improved training. For example, in Italy and several other Member States, the Guardia di Finanza or financial police are tasked with handling such cases. However, this is not universally the case. Even in jurisdictions where such specialized units exist, they must receive training to effectively cooperate with counterparts in other countries and navigate the complex schemes often encountered in cross-border contexts.

It is important to note that, this analysis is an interim outcome of the EU Cyber VAT project, with the aim to study the state of art about the legislative measures on cyber VAT fraud in the EU. The insights gained from this study will lay the groundwork for the final Report, which will also incorporate the criminological analysis (D2.1), and, through the comparative method, delineate the common points and the differences in each MSs in order to suggest potential solutions and best practices in fighting cyber VAT fraud at criminal and procedural law level.

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Annex I – Questionnaire for national experts

EU CYBER VAT

Fighting cyber-VAT fraud in the EU: a comparative criminological and criminal law study

Union Anti-Fraud Programme (EUAF) - EUAF-2022-TRAI - 101101811

Questionnaire for National Experts | March 2024

With the financial support of the Directorate-General for European Anti-Fraud Office – OLAF Union Anti-Fraud Programme – EUAF

Dear national expert,

first of all, thank you for taking on this task. This is the questionnaire you have been asked to complete as part of the project "EU CYBER VAT - Fighting cyber-VAT fraud in the EU: a comparative criminological and criminal law study", which is co-funded by the EU Anti-Fraud Programme (EUAF).

In the box below you will find an overview of the project.

1. Questionnaire's purpose

The purposes of EU CYBER VAT Questionnaire are the following:

- to present the state of play of the transposition of **Directive (EU) 2017/1371** of the European Parliament and of the Council of July 5, 2017 on the fight against fraud to the Union's financial interests by means of criminal law (hereinafter "**PIF Directive**") into the national law of the Member States and the mapping of the national legislation of the Member States in relation to the criminal offences of VAT fraud and cyber VAT fraud;
- to identify which **investigative tools/measures** are used in the EU Member States to investigate and prosecute VAT fraud and cyber VAT fraud;
- to examine the **role of ICT in the strategy / policy to combat cyber VAT fraud;**
- to assess the legal framework for **cyber-VAT Fraud** (e.g. MTIC) affecting the EU's financial interests in the context of **e-commerce**;
- to identify trends in (new) cybercriminal activities against the EU's financial interests by describing clusters of the modus operandi and of cyber VAT fraudsters in the EU based on **case studies**.

2. Instructions for completing the questionnaire

This survey contains two types of questions: closed and open.

You can select your answer by double-clicking on the appropriate box and then clicking on the "ticked" option. You can also simply write an "X" next to the box you want to check. If your answer is not listed in the options, please use the space in the table to write your answer.

For open questions, you can write your answer in the space next to the question. Please use as much space as necessary - the field will automatically expand to fit your answer.

Please answer **questions 1, 2 and 4** using the **Annexes**. We have carried out a preliminary analysis of EU Member States' national legislation based on desk research and ask you to confirm the results set out in the Annexes. Please use the Annexes to: a) confirm or deny the reported information; b) provide clarifications in case of non-confirmation through comments; c) provide us with an English version of the text of the relevant legislation.

Deadline: we kindly ask you to return the questionnaire to us by April, 30 2024 by sending it at: cssc@unitn.it

PROJECT OVERVIEW

1. Background

EU cyber-VAT fraud poses an increasing threat to the protection of the European Union's financial interests. Given the growth of the digital market and the **digitization of VAT-related operations**, the legal framework for VAT fraud at EU and Member State level must be adequate to also effectively prevent and combat criminal conduct in cyberspace.

2. General Objective

The **general objective** of this comparative law study (project **EU CYBER VAT**) is to assess the adequacy of the current legal framework at EU and Member State level with regard to combating **cyber-VAT fraud** and to propose solutions to make it more effective and efficient at EU and Member State level. Using the **method of comparative law research**, the project will investigate whether the European criminal law framework for VAT fraud under the **PIF Directive, its implementation by Member States, and national criminal law provisions** can provide a sufficient level of legal protection against the intersection of VAT fraud and cybercrime. As these are **cross-border and particularly serious crimes**, the degree of harmonisation between national rules must always be monitored and ensured.

3. Specific Objectives

The general objective of the project can be divided into the following **3 specific objectives** (SO):

a) To provide an analysis of cyber-VAT frauds in the European Union from an empirical criminological point of view, with special attention to the modus operandi as well as the characteristics of the actors involved. The new threats related to the digitalization of tax transactions will be assessed from a criminological perspective, in order to provide a basis for evaluating the adequacy of measures against cyber-VAT fraud in the EU and activities to detect and investigate cyber-VAT fraud by tax and law enforcement authorities;

b) To provide an account of the transposition of EU criminal law into national legislations to specifically prevent and combat cyber-VAT fraud and an account of the differences between the relevant national legislations of the Member States as well as national best practices;

c) To elaborate, from the dual perspective of substantive criminal law and criminal procedure, recommendations and proposals to improve the EU regulation and the national anti-fraud strategies (NAFS) against cyber-VAT fraud in order to address the new threats to the financial interests of the European Union in the context of the digital age. This will take particular account of MTIC in the digital marketplace, exploring the possibility of introducing forms of service provider accountability to prevent cyber-VAT fraud. It will also promote a higher level of harmonisation in the regulation of cross-border cyber-VAT fraud, especially when it occurs in the context of e-commerce activity.

3. Terminology Clarification

For the purposes of this Questionnaire, for **Cyber VAT fraud** we mean:

"Cyber VAT fraud involves the use of technology to facilitate the overall criminal activity or to assist it in one or more of its stages/phases. The use of technology in one or more stages/phases may include the creation of shell companies using forged documents or identities, the conduct of online transactions and the sale of online goods, including digital goods".

4. Support

Should you have any inquiries, please feel free to contact us

Contacts: cssc@unitn.it

EU CYBER VAT Questionnaire

Member State: _____

Section 1 – Criminal law on VAT Fraud *In this section, we will examine the legal framework of VAT fraud (all types of VAT fraud, not just digital) in the national criminal law of your country, also with regard to Directive (EU) 2017/1371, the so-called PIF Directive.*	
1. Does your country's national legislation on VAT fraud committed by natural persons comply with Article 3 of the PIF Directive?	*We have carried out a preliminary analysis of EU Member States' national legislation based on desk research and ask you to confirm the findings set out in* ***Annex 1****. Please use the Annex to: a) confirm or deny the reported information; b) provide clarification in case of non-confirmation through comments; c) provide us with an English version of the text of the relevant legislation.*
1.1 Which of the following acts fall under your national offence(s) of VAT fraud by natural persons? [Please check all that apply]	☐ All possible conducts of VAT fraud are covered (free-form) ☐ Only some conducts of VAT fraud are covered If only some conducts, which one? ☐ In respect of revenue other than revenue arising from VAT own resources: ☐ The use or presentation of false, incorrect or incomplete statements or documents ☐ Non-disclosure of information in violation of a specific obligation ☐ Misapplication of a legally obtained benefit In respect of revenue arising from VAT own resources:

	☐ The use or presentation of false, incorrect or incomplete VAT-related statements or documents ☐ Non-disclosure of VAT-related information in violation of a specific obligation ☐ The presentation of correct VAT-related statements for the purposes of fraudulently disguising the non-payment or wrongful creation of rights to VAT refunds ☐ Others (*please specify*)
1.2 Which acts (1.1) are punishable with regard to the subjective elements of your national criminal offence of VAT fraud?	☐ Intentional acts only ☐ Unintentional acts only ☐ Both
2. Is your national law in line with Article 7 of the VAT Directive with regard to sanctions for natural persons committing VAT fraud?	*We have carried out a preliminary analysis of EU Member States' national legislation based on desk research and ask you to confirm the findings set out in* ***Annex 2****. Please use the Annex to: a) confirm or deny the reported information; b) provide clarification in case of non-confirmation through comments; c) provide us with an English version of the text of the relevant legislation.*
3. Does your national law contain an aggravating circumstance for the commission of VAT fraud in the context of organised crime, as provided for in Article 8 of the PIF Directive? [If yes, please send us the relevant text of your national law in English]	☐ YES ☐ NO
4. Is your national law on VAT fraud in relation to the liability of legal persons compliant with Article 6 of the PIF Directive?	*We have carried out a preliminary analysis of EU Member States' national legislation based on desk research and ask you to confirm the results set out in the* ***Annex 3****. Please use the Annexes to: a) confirm or deny the reported information; b) provide clarifications in case of non-confirmation through comments; c) provide us with an English version of the text of the relevant legislation.*

5. Which of the following sanctions provided for in Article 9 of the PIF Directive in relation to legal persons recognized as responsible under Article 6 are provided for in your national law? [Please check all that apply]	☐ criminal fine (please specify the extent); ☐ non-criminal fine (please specify the extent); ☐ exclusion from entitlement to public benefits or aid; ☐ temporary or permanent exclusion from public tender procedures; ☐ temporary or permanent disqualification from the practice of commercial activities; ☐ placing under judicial supervision; ☐ judicial winding-up; ☐ temporary or permanent closure of establishments which have been used for committing the criminal offence.
Section 2 – Criminal law on Cyber VAT Fraud *In this section, we will examine the legal framework of cyber VAT fraud in the national criminal law of your country.*	
6. Is cyber VAT fraud punishable under the criminal law of your country? [If yes, please provide us with the relevant text of your national law in English. Not required if it is the same provision as question 1]	☐ No ☐ Yes, there is a specific criminal offence of cyber VAT fraud ☐ Yes, it is punishable under the criminal offence of VAT fraud (as described in Annex 1) ☐ Yes, as an aggravating circumstance of VAT fraud (VAT fraud enabled by the use of technology) ☐ Other (*please specify*)
Section 3 – Investigation and prosecution of VAT fraud and cyber VAT fraud *This section examines the investigative tools and measures to combat VAT fraud and cyber VAT fraud, the legal framework of jurisdiction and limitation period on these criminal offences*	
7. On which investigative tools/measures law enforcement authorities of your country can rely on for investigating VAT fraud? [Please name the most effective investigative tools. Please base your answer not only on your personal experience and expertise, but also on case studies or publications and cite the relevant sources]	
8. Can these investigative tools/measures also be used effectively in the investigation of cyber VAT fraud? Are there any other specific investigative	

tools/measures that law enforcement authorities in your country can rely on when specifically investigating cyber VAT fraud? [Please base your answer not only on your personal experience and expertise, but also on case studies or publications and cite the relevant sources]	
9. How could the national criminal procedure be improved to better combat VAT fraud in your country? [If applicable, please identify the operational challenges that hinder the effectiveness of authorities in detecting and investigating VAT fraud and explain how the proposed improvements could impact these challenges]	
10. How could the national criminal procedure be improved to better combat cyber VAT fraud in your country? [If applicable, please identify the operational challenges that hinder the effectiveness of authorities in detecting and investigating cyber VAT fraud and explain how the proposed improvements could impact these challenges]	
11. When does VAT fraud fall under the jurisdiction of your national legislation? [Please check all that apply]	☐ when the criminal offence is committed in whole or in part within your country's territory ☐ when the offender is one of your nationality ☐ when the offender is a habitual resident in your territory ☐ when the criminal offence is committed for the benefit of a legal person established in your territory ☐ when the offender is one of your officials who acts in his or her official duty ☐ always when the offender is subject to the Staff Regulations at the time of the criminal offence ☐ when the offender is subject to the Staff Regulations at the time of the criminal offence just in specific occasions or when specific conditions are fulfilled (please specify which occasions/conditions) ☐ in other occasions (please specify the occasions)
12. If the jurisdiction of your country is based on the fact that the offence of VAT fraud was committed by	☐ the condition that the prosecution can be initiated only following a report

one of your citizens, what does your national law require? [Please check all that apply]	made by the victim in the place where the criminal offence was committed ☐ the condition that the prosecution can be initiated only following a denunciation from the State of the place where the criminal offence was committed ☐ other conditions (please specify) ☐ no conditions at all
13. Does your national legislation provide for a limitation period of at least 5 years for the criminal offence of VAT fraud, as provided for in Article 12 of the PIF Directive? [If yes, please send us the corresponding text of your national law in English]	☐ YES ☐ NO
13.1 If not, is a limitation period of at least 3 years provided for (on condition that the period may be interrupted or suspended in the event of specified acts)?	☐ YES ☐ NO
13.2 In which cases does your national legislation provide that a penalty imposed for VAT fraud can be enforced for at least five years from the date of the final conviction?	☐ in case of a penalty of more than one year of imprisonment ☐ in case of a penalty of imprisonment for a criminal offence which is punishable by a maximum sanction of at least four years of imprisonment ☐ in both the above cases ☐ in none of the above cases ☐ other cases (*please specify*)
Section 4 – The role of ICT in the strategy / policy to combat cyber VAT fraud This section examines the role of ICT in the strategy/policy to combat cyber VAT fraud, in particular with regard to fraud prevention and detection.	
14. Which of the following anti-fraud strategies/policies involving ICT are most effective against cyber VAT? [Please tick all that apply and explain why]	☐ Collection of data by law enforcement agencies ☐ National plan of cybersecurity (e.g. by updating operating systems, applications and security software to protect against vulnerabilities in institutions' digital archives) ☐ Analysis and the monitoring of transactions (e.g. to detect suspicious activities to detect fraud early)

	☐ Cross-border cooperation (e.g. digital systems for the exchange of information) ☐ Submission of information regarding intra-Community transactions (e.g. e-reporting)
15. Are there specific anti-fraud ICT strategies/policies in your country that are particularly useful against cyber VAT fraud? [If yes, please name the specific anti-fraud ICT strategies/policies and explain to what extent they are particularly useful in combating cyber VAT fraud]	☐ YES ☐ NO
16. *The EU has noted (as explained in the final report "VAT in the Digital Age - Volume 1 - Digital Reporting Obligations") that there is a fragmented legal framework and very different systems for e-invoicing and e-reporting in different European Member States.* In your opinion, is promoting the introduction of digital reporting obligations that optimize the use of digital technologies, e.g. by introducing some minimum requirements for all EU countries, an effective way to combat VAT and cyber VAT fraud? [If yes, please identify the main critical points in your national VAT reporting rules and the specific aspects that would require improvement (e.g. increasing the frequency of reporting)]	☐ YES ☐ NO
Section 5 – Cyber VAT Fraud in the context of e-commerce *This section deals with the implementation of Directive 2020/284 and the MOSS scheme*	
17. Is the national law of your country compliant with EU Directive 2020/284 Directive regarding the general obligations of payment service providers?	☐ YES ☐ NO
17.1 If not, is the transposition in progress?	☐ YES ☐ NO
17.2 If the transposition is in progress, what is the expected deadline?	
18. *Directive EU 2020/284 introduces new obligations for payment service providers in relation to the recording and reporting of payment information for cross-border payments as part of the European Union's action plan to combat VAT fraud in e-commerce.* Were these recording/reporting obligations already provided for in your national legislation?	☐ YES ☐ NO

[If yes, please send us the relevant text of your national legislation in English or in the original language]	
18.1 If not, were these recording/reporting obligations introduced with the implementation?	☐ YES ☐ NO
19. What sanctions or consequences (e.g. inclusion in specific lists) does your country provide for in the event of a breach of the provider' obligations? [Please send us the relevant text of your national legislation in English or in the original language]	
20. *The VAT Mini One Stop Shop (MOSS) is an optional scheme that allows you to account for VAT, which is normally due in multiple EU countries, in just one EU country.* Has your country introduced the MOSS scheme?	☐ YES ☐ NO
21. In your opinion, how could service providers and payment service providers be more involved in the detection and prevention of criminal offences related to VAT fraud?	
Section 6 – Case study *In this section, we ask you to provide us with national case studies so that we can conduct a criminological analysis of the modus operandi and characteristics of the actors involved in cyber VAT fraud in the EU.*	
22. Please select and submit **emblematic cases of cyber VAT fraud** at the national investigation level. [The empirical criminological analysis aims to assess the behaviours realised in cyberspace that could harm the financial interests of the EU through VAT evasion, focusing on the modus operandi and characteristics of the actors of cyber VAT fraud in the EU, as well as on the role of technologies in the commission of these crimes. Therefore, we please ask you to select and submit emblematic cases at the level of national investigations. Please attach to your email together with the questionnaire any materials such as publications, court decisions, etc. that report on interesting case studies providing information on modus operandi and perpetrators of cyber VAT fraud within the EU]	

Fighting cyber-VAT fraud in the EU: a comparative criminological and criminal law study

Union Anti-Fraud Programme (EUAF) - EUAF-2022-TRAI - 101101811

Appendix 1 | Compliance to Art. 3 (Fraud affecting the Union's financial interests) of the Directive (EU) 2017/1371, so-called PIF Directive

Member State		Compliance	Legal Reference
Austria	Preliminary analysis of national legislation (desk research)	Yes, because of the provision of a new legislation	Art. 40 l. 129/1958 as amended by l. 62/2019
	Do you confirm the results of the preliminary analysis?	Yes/No	Yes/No

	If no, please specify the amendments		
	Text of the relevant legal provision(s)		

Member State		Compliance	Legal Reference
Belgium	Preliminary analysis of national legislation (desk research)	Yes, because of the amendment of pre-existing discipline	Art. 73 and 73nonies VAT Code as amended by l. 9 December of 2019
	Do you confirm the results of the preliminary analysis?	Yes/No	Yes/No
	If no, please specify the amendments		
	Text of the relevant legal provision(s)		

Member State		Compliance	Legal Reference
Bulgaria	Preliminary analysis of national legislation (desk research)	Yes, because of the amendment of pre-existing discipline	Art. 255 Bulgarian Criminal Code
	Do you confirm the results of the preliminary analysis?	Yes/No	Yes/No
	If no, please specify the amendments		
	Text of the relevant legal provision(s)		

Member State		Compliance	Legal Reference
Croatia	Preliminary analysis of national legislation (desk research)	No, because of not adequate amendments of pre-existing discipline	Art. 236 and 256 Croatian Criminal Code
	Do you confirm the results of the preliminary analysis?	Yes/No	Yes/No
	If no, please specify the amendments		
	Text of the relevant legal provision(s)		

Member State		Compliance	Legal Reference
Cyprus	Preliminary analysis of national legislation (desk research)	Yes, because of the provision of a new legislation	Art. 4 l. 4762/2020 as amended by l. 114/2021

	Do you confirm the results of the preliminary analysis?	Yes/No	Yes/No
	If no, please specify the amendments		
	Text of the relevant legal provision(s)		

Member State		Compliance	Legal Reference
Czechia	Preliminary analysis of national legislation (desk research)	No, because of not adequate amendments of pre-existing discipline	Art. 260 of Czech Criminal Code
	Do you confirm the results of the preliminary analysis?	Yes/No	Yes/No
	If no, please specify the amendments		

	Text of the relevant legal provision(s)	

Member State		Compliance	Legal Reference
Denmark	Preliminary analysis of national legislation (desk research)	No, because Denmark is not legally required to transpose the PIF Directive due to Protocol n. 22 of the TFUE. Denmark is legally bound to PIF Convention.	Art. 289 and 289a Danish Criminal Code
	Do you confirm the results of the preliminary analysis?	Yes/No	Yes/No
	If no, please specify the amendments		
	Text of the relevant legal provision(s)		

Member State		Compliance	Legal Reference
Estonia	Preliminary analysis of national legislation (desk research)	Yes, because of the amendment of pre-existing discipline	Art. 209 Estonian Criminal Code as amended by l. 5/2019
	Do you confirm the results of the preliminary analysis?	Yes/No	Yes/No
	If no, please specify the amendments		
	Text of the relevant legal provision(s)		

Member State		Compliance	Legal Reference
Finland	Preliminary analysis of national legislation (desk research)	No, because of not adequate amendments of pre-existing discipline	Art. 1, 2 and 4 of section 29 Finnish Criminal Code

	Do you confirm the results of the preliminary analysis?	Yes/No	Yes/No
	If no, please specify the amendments		
	Text of the relevant legal provision(s)		

Member State		Compliance	Legal Reference
France	Preliminary analysis of national legislation (desk research)	No, because the pre-existing discipline is not adequate	Art. 313-1, 313-2, 313-3 and 113-14 French Criminal Code
	Do you confirm the results of the preliminary analysis?	Yes/No	Yes/No
	If no, please specify the amendments		

	Text of the relevant legal provision(s)	

Member State		Compliance	Legal Reference
Germany	Preliminary analysis of national legislation (desk research)	Yes, because of the amendment of pre-existing discipline	Section 264 German Criminal Code
	Do you confirm the results of the preliminary analysis?	Yes/No	Yes/No
	If no, please specify the amendments		
	Text of the relevant legal provision(s)		

Member State	Compliance	Legal Reference

Greece	Preliminary analysis of national legislation (desk research)	No, because of the provision of a new legislation not entirely adequate	Art. 23 l. 103/2020
	Do you confirm the results of the preliminary analysis?	Yes/No	Yes/No
	If no, please specify the amendments		
	Text of the relevant legal provision(s)		

Member State		Compliance	Legal Reference
Hungary	Preliminary analysis of national legislation (desk research)	No, because the pre-existing discipline is not adequate	Art. 396 Hungarian Criminal Code
	Do you confirm the results of the preliminary analysis?	Yes/No	Yes/No
	If no, please specify the amendments		
	Text of the relevant legal provision(s)		

Member State		Compliance	Legal Reference
Ireland	Preliminary analysis of national legislation (desk research)	Yes, because of the amendment of pre-existing discipline	Art. 42 l. 50/2001, Criminal Justice (Theft and Fraud Offences) Act as amended by l. 2/2021

	Do you confirm the results of the preliminary analysis?	Yes/No	Yes/No
	If no, please specify the amendments		
	Text of the relevant legal provision(s)		

Member State		Compliance	Legal Reference
Italy	Preliminary analysis of national legislation (desk research)	Yes, because of the amendment of pre-existing discipline	Art. 316ter and 640 Italian Criminal Code and Art. 2, 3 and 4 D. lgs. 74/2000 as amended by D. lgs. 75/2020 and D. lgs. 156/2022
	Do you confirm the results of the preliminary analysis?	Yes/No	Yes/No
	If no, please specify the amendments		

	Text of the relevant legal provision(s)		
Member State		Compliance	Legal Reference
Latvia	Preliminary analysis of national legislation (desk research)	No, because of the amendment of pre-existing discipline	Art. 218, 218.1 and 219 Latvian Criminal Code
	Do you confirm the results of the preliminary analysis?	Yes/No	Yes/No
	If no, please specify the amendments		
	Text of the relevant legal provision(s)		

Member State		Compliance	Legal Reference
Lithuania	Preliminary analysis of national legislation	No, because of the amendment of pre-existing discipline	Art. 182, 207 and 220 Lithuanian Criminal Code as amended by I. XIII-2334 and I. XIV-1925

	(desk research)		
	Do you confirm the results of the preliminary analysis?	Yes/No	Yes/No
	If no, please specify the amendments		
	Text of the relevant legal provision(s)		

Member State		Compliance	Legal Reference
Luxembourg	Preliminary analysis of national legislation (desk research)	Yes, because of the amendment of pre-existing discipline	Art. 496-4 and 501 Luxembourgian Criminal Code as amended by l. 12 March 2020
	Do you confirm the results of the preliminary analysis?	Yes/No	Yes/No

	If no, please specify the amendments		
	Text of the relevant legal provision(s)		

Member State		Compliance	Legal Reference
Malta	Preliminary analysis of national legislation (desk research)	Yes, because of the provision of a new legislation	Art. 2 of L. XVIII/2020 that amended art. 190C Maltese Criminal Code
	Do you confirm the results of the preliminary analysis?	Yes/No	Yes/No
	If no, please specify the amendments		
	Text of the relevant legal provision(s)		

Member State		Compliance	Legal Reference
Netherlands	Preliminary analysis of national legislation (desk research)	Yes, because of the amendment of pre-existing discipline	Art. 69 and 69a *Algemene wet Inzake Rijksbelastingen*
	Do you confirm the results of the preliminary analysis?	Yes/No	Yes/No
	If no, please specify the amendments		
	Text of the relevant legal provision(s)		

Member State	Compliance	Legal Reference

Poland	Preliminary analysis of national legislation (desk research)	Yes, because the legislation was already adequate	Art. 54 and 56 Polish Tax Criminal Code
	Do you confirm the results of the preliminary analysis?	Yes/No	Yes/No
	If no, please specify the amendments		
	Text of the relevant legal provision(s)		

Member State		Compliance	Legal Reference
Portugal	Preliminary analysis of national legislation (desk research)	No, because of not adequate amendments of pre-existing discipline	Art. 36 and 38 D.l. 28/84 of 20 January 2013 as amended by l. 4/2024
	Do you confirm the	Yes/No	Yes/No

	results of the preliminary analysis?		
	If no, please specify the amendments		
	Text of the relevant legal provision(s)		

Member State		Compliance	Legal Reference
Romania	Preliminary analysis of national legislation (desk research)	Yes, because of the amendment of pre-existing discipline	Art. 9.1 l. 241/2005 as introduced by l. 125/2023
	Do you confirm the results of the preliminary analysis?	Yes/No	Yes/No
	If no, please specify the amendments		

	Text of the relevant legal provision(s)	

Member State		Compliance	Legal Reference
Slovakia	Preliminary analysis of national legislation (desk research)	No, because of not adequate amendments of pre-existing discipline	Art 261 Slovakian Criminal Law as amended by l. 214/2019
	Do you confirm the results of the preliminary analysis?	Yes/No	Yes/No
	If no, please specify the amendments		
	Text of the relevant legal provision(s)		

Member State		Compliance	Legal Reference
Slovenia	Preliminary analysis of national legislation (desk research)	No, because of not adequate amendments of pre-existing discipline	Art. 229 Slovenia Criminal Code as amended by art. 32 l. 186/2021
	Do you confirm the results of the preliminary analysis?	Yes/No	Yes/No
	If no, please specify the amendments		
	Text of the relevant legal provision(s)		

Member State		Compliance	Legal Reference
Spain	Preliminary analysis of national legislation (desk research)	Yes, because of the amendment of pre-existing discipline	Art. 305 and 306 Spanish Criminal Code as amended by art. 10 *Ley organica* 1/2019
	Do you confirm the results of the preliminary analysis?	Yes/No	Yes/No
	If no, please specify the amendments		
	Text of the relevant legal provision(s)		

Member State		Compliance	Legal Reference
Sweden	Preliminary analysis of national legislation (desk research)	No, because the pre-existing discipline is not adequate	Section 2 l. 69/1971

	Do you confirm the results of the preliminary analysis?	Yes/No	Yes/No
	If no, please specify the amendments		
	Text of the relevant legal provision(s)		

Union Anti-Fraud Programme (EUAF) - EUAF-2022-TRAI - 101101811

Appendix 2 | Compliance to Art. 7 (Sanctions with regard to natural persons) of the Directive (EU) 2017/1371, so-called PIF Directive

Member State		Compliance	Sanction
Austria	Preliminary analysis of national legislation (desk research)	Yes, because the maximum penalty laid down in national law is higher than the minimum standard of the PIF Directive	1 - 10 years

	Do you confirm the results of the preliminary analysis?	Yes/No
	If no, please specify the amendments	

Member State		Compliance	Sanction
Belgium	Preliminary analysis of national legislation (desk research)	Yes, because the maximum penalty laid down in national law is higher than the minimum standard of the PIF Directive	8 days - 5 years
	Do you confirm the results of the preliminary analysis?	Yes/No	
	If no, please specify the amendments		

Member State		Compliance	Sanction
Bulgaria	Preliminary analysis of national legislation (desk research)	Yes, because the maximum penalty laid down in national law is higher than the minimum standard of the PIF Directive	1 - 6 years
	Do you confirm the results of the preliminary analysis?	Yes/No	
	If no, please specify the amendments		

Member State		Compliance	Sanction
Croatia	Preliminary analysis of national legislation (desk research)	Yes, because the maximum penalty laid down in national law is higher than the minimum standard of the PIF Directive	6 months - 5 years
	Do you confirm the results of the preliminary analysis?	Yes/No	

	If no, please specify the amendments	

Member State		Compliance	Sanction
Cyprus	Preliminary analysis of national legislation (desk research)	Yes, because the maximum penalty laid down in national law is higher than the minimum standard of the PIF Directive	Up to 7 years
	Do you confirm the results of the preliminary analysis?	Yes/No	
	If no, please specify the amendments		

Member State		Compliance	Sanction
Czechia	Preliminary analysis of national legislation (desk research)	No, because the maximum penalty laid down in national law is lower than the minimum standard of the PIF Directive	Up to 3 years
	Do you confirm the		

	results of the preliminary analysis?	Yes/No
	If no, please specify the amendments	

Member State		Compliance	Sanction
Denmark	Preliminary analysis of national legislation (desk research)	Yes, because the maximum penalty laid down in national law is higher than the minimum standard of the PIF Directive. Note that Denmark is not legally required to transpose the PIF Directive due to Protocol n. 22 of the TFUE. Denmark is legally bound to the PIF Convention.	Up to 4 years
	Do you confirm the results of the preliminary analysis?	Yes/No	
	If no, please specify the amendments		

Member State		Compliance	Sanction
Estonia	Preliminary analysis of national legislation (desk research)	Yes, because the maximum penalty laid down in national law is higher than the minimum standard of the PIF Directive	Up to 4 years
	Do you confirm the results of the preliminary analysis?	Yes/No	
	If no, please specify the amendments		

Member State		Compliance	Sanction
Finland	Preliminary analysis of national legislation (desk research)	No, because the maximum penalty laid down in national law is lower than the minimum standard of the PIF Directive	Up to 2 years
	Do you confirm the results of the preliminary analysis?		

	If no, please specify the amendments	

Member State		Compliance	Sanction
France	Preliminary analysis of national legislation (desk research)	Yes, because the maximum penalty laid down in national law is higher than the minimum standard of the PIF Directive	Equal to 5 years
	Do you confirm the results of the preliminary analysis?	Yes/No	
	If no, please specify the amendments		

Member State		Compliance	Sanction
Germany	Preliminary analysis of national legislation (desk research)	Yes, because the maximum penalty laid down in national law is higher than the minimum standard of the PIF Directive	Up to 5 years
	Do you confirm the		

	results of the preliminary analysis?	Yes/No
	If no, please specify the amendments	

Member State		Compliance	Sanction
Greece	Preliminary analysis of national legislation (desk research)	Yes, because the maximum penalty laid down in national law is higher than the minimum standard of the PIF Directive	No less than 10 years
	Do you confirm the results of the preliminary analysis?	Yes/No	
	If no, please specify the amendments		

Member State		Compliance	Sanction
Hungary	Preliminary analysis of national legislation	No, because the maximum penalty laid down in national law is lower than the minimum standard of the PIF Directive	Up to 3 years

	(desk research)		
	Do you confirm the results of the preliminary analysis?	Yes/No	
	If no, please specify the amendments		

Member State		Compliance	Sanction
Ireland	Preliminary analysis of national legislation (desk research)	Yes, because the maximum penalty laid down in national law is higher than the minimum standard of the PIF Directive	Up to 5 years
	Do you confirm the results of the preliminary analysis?	Yes/No	
	If no, please specify the amendments		

Member State		Compliance	Sanction
Italy	Preliminary analysis of national legislation (desk research)	Yes, because the maximum penalty laid down in national law is higher than the minimum standard of the PIF Directive	18 months – 6 years
	Do you confirm the results of the preliminary analysis?	Yes/No	
	If no, please specify the amendments		

Member State		Compliance	Sanction
Latvia	Preliminary analysis of national legislation (desk research)	No, because the maximum penalty laid down in national law is lower than the minimum standard of the PIF Directive	Up to 2 years
	Do you confirm the results of the preliminary analysis?	Yes/No	

	If no, please specify the amendments	

Member State		Compliance	Sanction
Lithuania	Preliminary analysis of national legislation (desk research)	No, because the maximum penalty laid down in national law is lower than the minimum standard of the PIF Directive	Up to 3 years
	Do you confirm the results of the preliminary analysis?	Yes/No	
	If no, please specify the amendments		

Member State		Compliance	Sanction
Luxembourg	Preliminary analysis of national legislation (desk research)	Yes, because the maximum penalty laid down in national law is higher than the minimum standard of the PIF Directive	4 months - 4 years

	Do you confirm the results of the preliminary analysis?	Yes/No
	If no, please specify the amendments	

Member State		Compliance	Sanction
Malta	Preliminary analysis of national legislation (desk research)	Yes, because the maximum penalty laid down in national law is higher than the minimum standard of the PIF Directive	6 months - 4 years
	Do you confirm the results of the preliminary analysis?	Yes/No	
	If no, please specify the amendments		

Member State		Compliance	Sanction
Netherlands	Preliminary analysis of national	Yes, because the maximum penalty laid down in national law is higher than the minimum standard of the PIF Directive	Up to 4 years / 6 years depending on the conduct

	legislation (desk research)		
	Do you confirm the results of the preliminary analysis?	Yes/No	
	If no, please specify the amendments		

Member State		Compliance	Sanction
Poland	Preliminary analysis of national legislation (desk research)	Yes, because the maximum penalty laid down in national law is higher than the minimum standard of the PIF Directive	No maximum is set
	Do you confirm the results of the preliminary analysis?	Yes/No	
	If no, please specify the amendments		

Member State		Compliance	Sanction
Portugal	Preliminary analysis of national legislation (desk research)	Yes, because the maximum penalty laid down in national law is higher than the minimum standard of the PIF Directive	1 - 5 years
	Do you confirm the results of the preliminary analysis?	Yes/No	
	If no, please specify the amendments		

Member State		Compliance	Sanction
Romania	Preliminary analysis of national legislation (desk research)	Yes, because the maximum penalty laid down in national law is higher than the minimum standard of the PIF Directive	7 - 15 years
	Do you confirm the results of the preliminary analysis?	Yes/No	

	If no, please specify the amendments	

Member State		Compliance	Sanction
Slovakia	Preliminary analysis of national legislation (desk research)	No, because the maximum penalty laid down in national law is lower than the minimum standard of the PIF Directive	6 months - 3 years
	Do you confirm the results of the preliminary analysis?	Yes/No	
	If no, please specify the amendments		

Member State		Compliance	Sanction
Slovenia	Preliminary analysis of national legislation (desk research)	Yes, because the maximum penalty laid down in national law is higher than the minimum standard of the PIF Directive	3 months - 5 years
	Do you confirm the	Yes/No	

	results of the preliminary analysis?	
	If no, please specify the amendments	

Member State		Compliance	Sanction
Spain	Preliminary analysis of national legislation (desk research)	Yes, because the maximum penalty laid down in national law is higher than the minimum standard of the PIF Directive	1 - 5 years
	Do you confirm the results of the preliminary analysis?	Yes/No	
	If no, please specify the amendments		

Member State		Compliance	Sanction
Sweden	Preliminary analysis of national legislation	No, because the maximum penalty laid down in national law is lower than the minimum standard of the PIF Directive	Up to 2 years

	(desk research)		
	Do you confirm the results of the preliminary analysis?	Yes/No	
	If no, please specify the amendments		

Fighting cyber-VAT fraud in the EU: a comparative criminological and criminal law study

Union Anti-Fraud Programme (EUAF) - EUAF-2022-TRAI - 101101811

Appendix 3 | Compliance to Art. 6 (Liability of legal persons) of the Directive (EU) 2017/1371, so-called PIF Directive

Member State		Compliance	Legal Reference
Austria	Preliminary analysis of national legislation (desk research)	Yes, because the legislation was already adequate	Federal law on the criminal liability of associations (artt. 1, 3, 4, 12)
	Do you confirm the results of the preliminary analysis?	Yes/No	Yes/No
	If no, please specify the amendments		
	Text of the relevant legal provision(s)		

Member State		Compliance	Legal Reference
Belgium	Preliminary analysis of national legislation (desk research)	Yes, because the legislation was already adequate	Art. 5 Criminal Code
	Do you confirm the results of the	Yes/No	Yes/No

	preliminary analysis?		
	If no, please specify the amendments		
	Text of the relevant legal provision(s)		

Member State		Compliance	Legal Reference
Bulgaria	Preliminary analysis of national legislation (desk research)	Yes, because of the amendment of pre-existing discipline	Law on administrative violations and administrative sanctions, (art. 83rd, first paragraph)
	Do you confirm the results of the preliminary analysis?	Yes/No	Yes/No
	If no, please specify the amendments		
	Text of the relevant legal provision(s)		

Member State		Compliance	Legal Reference
Croatia	Preliminary analysis of national legislation (desk research)	Yes, because the legislation was already adequate	Art. 247 Croatian Criminal Code and Law n. 151/2003 (art. 4, 5, 8)
	Do you confirm the results of the preliminary analysis?	Yes/No	Yes/No
	If no, please specify the amendments		
	Text of the relevant legal provision(s)		

Member State		Compliance	Legal Reference
Cyprus	Preliminary analysis of national legislation (desk research)	Yes, because of the provision of a new legislation	Art. 7 l. 4762/2020 as amended by l. 114/2021
	Do you confirm the results of the preliminary analysis?	Yes/No	Yes/No

	If no, please specify the amendments		
	Text of the relevant legal provision(s)		

Member State		Compliance	Legal Reference
Czechia	Preliminary analysis of national legislation (desk research)	Yes, because the legislation was already adequate	Section 7, Law n. 418/2011 about the liability of legal persons
	Do you confirm the results of the preliminary analysis?	Yes/No	Yes/No
	If no, please specify the amendments		
	Text of the relevant legal provision(s)		

Member State		Compliance	Legal Reference
Denmark	Preliminary analysis of national	No, because Denmark is not legally required to transpose the PIF Directive due to Protocol n. 22 of the TFUE.	Artt. 25, 26, 27 Danish Criminal Code and Law about VAT art. 81

	legislation (desk research)	Denmark is legally bound to PIF Convention.	
	Do you confirm the results of the preliminary analysis?	Yes/No	Yes/No
	If no, please specify the amendments		
	Text of the relevant legal provision(s)		

Member State		Compliance	Legal Reference
Estonia	Preliminary analysis of national legislation (desk research)	Yes, because the legislation was already adequate	Art. 209 Estonian Criminal Code as amended by l. 519/2019
	Do you confirm the results of the preliminary analysis?	Yes/No	Yes/No
	If no, please specify the amendments		

	Text of the relevant legal provision(s)	

Member State		Compliance	Legal Reference
Finland	Preliminary analysis of national legislation (desk research)	Yes, because of the amendment of pre-existing discipline	Section 9 Finnish Criminal Code and Art. 10 Law 2019/368
	Do you confirm the results of the preliminary analysis?	Yes/No	Yes/No
	If no, please specify the amendments		
	Text of the relevant legal provision(s)		

Member State		Compliance	Legal Reference
France	Preliminary analysis of national legislation (desk research)	No, because the pre-existing discipline is not adequate	Artt. 121-2, 131-37, 131,39 French Criminal Code
	Do you confirm the	Yes/No	Yes/No

	results of the preliminary analysis?		
	If no, please specify the amendments		
	Text of the relevant legal provision(s)		

Member State		Compliance	Legal Reference
Germany	Preliminary analysis of national legislation (desk research)	Yes, because the legislation was already adequate	Law on Administrative Offenses (artt. 30 and 130)
	Do you confirm the results of the preliminary analysis?	Yes/No	Yes/No
	If no, please specify the amendments		
	Text of the relevant legal provision(s)		

Member State		Compliance	Legal Reference
Greece	Preliminary analysis of national legislation (desk research)	No, because of the provision of a new legislation not entirely adequate	Art. 23 l. 103/2020
	Do you confirm the results of the preliminary analysis?	Yes/No	Yes/No
	If no, please specify the amendments		
	Text of the relevant legal provision(s)		

Member State		Compliance	Legal Reference
Hungary	Preliminary analysis of national legislation (desk research)	Yes, because the legislation was already adequate	Art. 2 of Law 104/2001
	Do you confirm the results of the preliminary analysis?	Yes/No	Yes/No

	If no, please specify the amendments		
	Text of the relevant legal provision(s)		

Member State		Compliance	Legal Reference
Ireland	Preliminary analysis of national legislation (desk research)	Yes, because of the provision of a new article	Art. 58 l. 50/2001, Criminal Justice (Theft and Fraud Offences) Act as amended by l. 2/2021
	Do you confirm the results of the preliminary analysis?	Yes/No	Yes/No
	If no, please specify the amendments		
	Text of the relevant legal provision(s)		

Member State		Compliance	Legal Reference
Italy	Preliminary analysis of national legislation (desk research)	Yes, because of the amendment of pre-existing discipline	Paragraph 1-bis, Art. 25-quinquies decies, D. lgs n. 74/2000 as amended by art. 5 D. lgs. 75/2020
	Do you confirm the results of the preliminary analysis?	Yes/No	Yes/No
	If no, please specify the amendments		
	Text of the relevant legal provision(s)		
Member State		Compliance	Legal Reference
Latvia	Preliminary analysis of national legislation (desk research)	Yes, because the legislation was already adequate	Artt. 70 and 70.1 Latvian Criminal Code
	Do you confirm the results of the	Yes/No	Yes/No

	preliminary analysis?		
	If no, please specify the amendments		
	Text of the relevant legal provision(s)		

Member State		Compliance	Legal Reference
Lithuania	Preliminary analysis of national legislation (desk research)	Yes, because of the amendment of pre-existing article	Art. 20 Lithuanian Criminal Code as amended by l. XIII-2334 and l. XIV-1925
	Do you confirm the results of the preliminary analysis?	Yes/No	Yes/No
	If no, please specify the amendments		
	Text of the relevant legal provision(s)		
Member State		**Compliance**	**Legal Reference**
Luxembourg	Preliminary analysis of	Yes, because the legislation was already adequate	Art. 34 Luxembourgian Criminal Code as amended by l. 12 March 2020

	national legislation (desk research)		
	Do you confirm the results of the preliminary analysis?	Yes/No	Yes/No
	If no, please specify the amendments		
	Text of the relevant legal provision(s)		

Member State		Compliance	Legal Reference
Malta	Preliminary analysis of national legislation (desk research)	Yes, because of the provision of a new legislation	Art. 2 of L. XVIII/2020 that amended art. 190G Maltese Criminal Code
	Do you confirm the results of the preliminary analysis?	Yes/No	Yes/No
	If no, please specify the amendments		

	Text of the relevant legal provision(s)	

Member State		Compliance	Legal Reference
Netherlands	Preliminary analysis of national legislation (desk research)	Yes, because the legislation was already adequate	Art. 51 Dutch criminal code
	Do you confirm the results of the preliminary analysis?	Yes/No	Yes/No
	If no, please specify the amendments		
	Text of the relevant legal provision(s)		

Member State		Compliance	Legal Reference
Poland	Preliminary analysis of national legislation (desk research)	Yes, because the legislation was already adequate	Art.3 l. n. 659/2023 about the Liability of legal persons
	Do you confirm the	Yes/No	Yes/No

	results of the preliminary analysis?		
	If no, please specify the amendments		
	Text of the relevant legal provision(s)		

Member State		Compliance	Legal Reference
Portugal	Preliminary analysis of national legislation (desk research)	No, because of not adequate amendments of pre-existing discipline	Art. 11 Portuguese criminal code
	Do you confirm the results of the preliminary analysis?	Yes/No	Yes/No
	If no, please specify the amendments		

	Text of the relevant legal provision(s)	

Member State		Compliance	Legal Reference
Romania	Preliminary analysis of national legislation (desk research)	Yes, because the legislation was already adequate	Art. 135 Romanian criminal code
	Do you confirm the results of the preliminary analysis?	Yes/No	Yes/No
	If no, please specify the amendments		
	Text of the relevant legal provision(s)		

Member State		Compliance	Legal Reference
Slovakia	Preliminary analysis of national legislation (desk research)	Yes, because the legislation was already adequate	Art. 4, Law n. 91/2016 about the liability of legal persons
	Do you confirm the	Yes/No	Yes/No

	results of the preliminary analysis?		
	If no, please specify the amendments		
	Text of the relevant legal provision(s)		

Member State		Compliance	Legal Reference
Slovenia	Preliminary analysis of national legislation (desk research)	Yes, because of the amendment of pre-existing article	Art. 4, Law n. 98/04 about the liability of legal person
	Do you confirm the results of the preliminary analysis?	Yes/No	Yes/No
	If no, please specify the amendments		
	Text of the relevant legal provision(s)		

Member State	Compliance	Legal Reference

Spain	Preliminary analysis of national legislation (desk research)	Yes, because of the amendment of pre-existing article and the legislation was already adequate	Art. 305 and 306 Spanish Criminal Code as amended by art. 10 *Ley organica* 1/2019 and art. 310.bis
	Do you confirm the results of the preliminary analysis?	Yes/No	Yes/No
	If no, please specify the amendments		
	Text of the relevant legal provision(s)		

Member State		Compliance	Legal Reference
Sweden	Preliminary analysis of national legislation (desk research)	Yes, because the legislation was already adequate	Section 37, art. 7, Swedish criminal code
	Do you confirm the results of the preliminary analysis?	Yes/No	Yes/No

	If no, please specify the amendments		
	Text of the relevant legal provision(s)		