// NO.24-019 | 03/2024

DISCUSSION PAPER

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Leveling the Playing Field? A Qualitative and Quantitative Examination of the EU Directive on Public Country-By-Country Reporting

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Leveling the Playing Field? A Qualitative and Quantitative Examination of the EU Directive on Public Country-by-Country Reporting

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This version: March 2024

Abstract:

The recent enactment of Directive 2021/2101 by the EU introduces a public Country-by-Country Reporting (CbCR) regime, with the aim of promoting a level playing field for businesses operating within the EU Single Market. The directive seeks to bolster tax transparency requirements for multinational enterprises (MNEs), with the objective of reducing disparities in international tax planning potential when compared to smaller, domestic firms. However, the efficacy of public CbCR in achieving this objective hinges on equitable treatment of MNEs, irrespective of their geographical location. In this study, we examine whether the public CbCR Directive introduces unintended disparities between (1) MNEs domiciled in different EU member states and (2) MNEs domiciled within and outside of the EU. Employing an expert survey, we assess the national implementation of the directive across member states, revealing significant variations, particularly concerning the deferment of sensitive information disclosure and permitted data sources. Subsequently, conducting a descriptive analysis of firm-level financial and ownership data, we analyze the differential impact on MNEs domiciled within versus outside the EU. Our findings indicate that the directive predominantly affects MNEs headquartered in the EU, with these entities disclosing, on average, a significantly higher proportion of their global operations on a disaggregated, country-by-country basis. We conclude that the current form and implementation of the directive likely introduces unintended disparities, contrary to the intended goal of establishing a level playing field, and suggest stronger guidance and fewer transposition options.

JEL Classification: F23; G38; H26; M41

Keywords: tax transparency; tax disclosure; country-by-country reporting; European Union

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Acknowledgments: We express our sincere gratitude to Frank Schmidt and Carola Kostopoulos for the assistance in distributing and collecting the surveys as well as all respondents from the participating PwC offices. We appreciate valuable feedback and comments from Albrecht Bohne, Katharina Nicolay, Gerrit von Zedlitz and the participants of the ZEW Corporate Taxation and Public Finance Department Meeting. We thank Laura Berger for excellent research assistance. Hannah Gundert and Stefan Weck gratefully acknowledge funding from the Graduate School of Economic and Social Sciences of the University of Mannheim. Stefan Weck also acknowledges funding from the Deutsche Forschungsgemeinschaft (DFG, German Research Foundation) – Project-ID 403041268 – TRR 266.

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1 Introduction

"The level playing field is a fundamental principle of the single market. The level playing field helps make sure that all businesses in the single market compete on fair and open terms."
(McGuinness 2023, p. 1)

– Commissioner Mairead McGuiness during a plenary debate of the European Parliament on public Country-by-Country Reporting transposition

Over the past decade, the European Union (EU) has addressed the challenge of improving tax compliance through strengthened mutual assistance between member states, primarily by intensifying information exchange mechanisms. A significant milestone in this endeavor occurred on December 2021, with the introduction of EU Directive 2021/2101. This directive established a public Country-by-Country Reporting (CbCR) regime, compelling large multinational enterprises (MNEs) to disclose certain financial metrics such as revenues, profits, taxes paid, and employee count on a country-by-country (CbC) basis. These disclosures are intended to enable stakeholders to evaluate high-level risks associated with base erosion and profit shifting (BEPS). Previously, CbCR in the EU was predominantly conducted in a *confidential* manner, wherein CbC reports were shared exclusively with tax authorities but not publicized. This safeguarded the sensitive disaggregated data from other stakeholders. *Public* CbCR was so far only applied in two particular industries: the banking sector and the extractive and logging industry.

Public CbCR aims at providing detailed insights into the economic activities of MNEs on a CbC basis, thereby aiming to establish a more equitable and transparent business environment, commonly referred to as a "level playing field", in the EU Single Market. The directive seeks to reduce inequalities between large MNEs, with high potential for international tax planning, and smaller, domestic firms lacking such potential. However, if the measure introduces new disparities, these would work against the overarching goal of (net) reducing inequality and establishing a level playing field in the EU Single Market. In the case of the public CbCR Directive, two disparities are conceivable: (1) disparities between MNEs domiciled in different member states and (2) disparities between MNEs domiciled inside and outside the EU. This study aims to examine, whether these disparities are likely to materialize.

The first disparity might result from a heterogeneous transposition of the directive into national law by the EU member states. Directives usually provide design options that can lead

to varying regulations across member states. However, the EU Single Market relies on a harmonized regulatory environment to ensure a level playing field. Inconsistencies in the implementation of EU law across member states increase the complexity for market participants to be compliant and create opportunities for regulatory arbitrage (McGuinness 2023). The second disparity might be caused by a discriminatory scope of the directive. The directive's scope requires EU domiciled MNEs with consolidated turnover exceeding EUR 750 million to disclose CbC reports. In contrast, non-EU domiciled MNEs surpassing the EUR 750 million turnover threshold are only required to disclose if they have large- or medium-sized subsidiaries or branches with at least EUR 8 million turnover in the EU, posing an additional requirement and a narrower scope. Additionally, affected MNEs are only required to provide CbC disclosures for EU member states and certain low-tax jurisdictions, while any other jurisdiction may be aggregated. EU domiciled MNEs, given their extensive operations within the EU, may thus be assumed to disclose a higher share of their worldwide operations on a CbC basis than non-EU domiciled firms. The publication of CbCR data is expected to impose substantial costs—in particular reputational and proprietary costs—on affected MNEs. These costs may amplify due to potential discrimination against MNEs based in the EU, resulting in disparities and thus working against the directive's goal of establishing a level playing field.

Since the directive is recent, there is limited knowledge about its appropriateness to establish a level playing field. Our study aims to fill this gap by assessing whether the directive bears the risk of introducing new and unintended disparities in the EU Single Market. Our objective is not to provide a conclusive assessment whether public CbCR increases or decreases equality,[1] but to provide early indications on potential shortcomings of the current regulation. Thereby, we aim to contribute to a more informed discussion surrounding public tax transparency and to suggest potential ways to increase the effectiveness of the measure to establish a level playing field. As discussions on public CbCR regimes expand to other geographic regions such as the US and Australia, and intersect with other reporting frameworks like sustainability reporting, our findings hold implications beyond the EU's public CbCR Directive.

[1] Such an assessment requires the measurement and comparison of the directive's impact on inequalities between MNEs and domestic firms and on the disparities among MNEs domiciled in different geographic regions within and outside of the EU. Given that the disclosure obligation has not yet started in all member states, it is not possible to measure these impacts to this date. We leave it to future researcher to discover the net impact of public CbCR on the business environment in the EU Single Market.

We address the two potential disparities individually, such that our analyses follow a two-step approach. First, we identify 13 explicit and implicit options available to the member states for transposing the public CbCR Directive into national law. To examine how the individual EU member states have used these options, we develop a survey that asks about the specific implementation and send it to experts from PricewaterhouseCoopers (PwC) in the 27 EU member states.[2] By the time of our analysis,[3] only 15 of the 27 member states have implemented the directive into national law. Six member states have not implemented but drafted law available, while the remaining six member states have not reached a draft law in the legislative process by the time of our analysis. Overall, the survey results indicate a substantial degree of heterogeneity suggesting disparities among affected MNEs in different member states. Most importantly, we find that individual member states do not allow for a temporal deferral of sensitive business information and that the translation of the turnover threshold at a fixed currency exchange rate in member states without the Euro results in disparities between MNEs in different member states that could potentially be exploited for regulatory arbitrage. In addition, we find that member states allow for different data sources and require different places for the reports to be publicly available, which not only leaves varying levels of discretion to firms, but also increases the search costs for report users.

Second, we analyze the personal and material scope of the public CbCR Directive to examine the MNEs affected by the disclosure regime and identify potential differences in affectedness between affected MNEs domiciled within and outside of the EU. The corresponding results suggest that the major share of affected firms is headquartered in the EU, which is in line with critical voices against the directive contending that it leads to a discriminatory treatment. Our results further indicate that affected EU firms have to disclose an about twice as high share of their global operations on a CbC basis, potentially amplifying their incurred proprietary costs of disclosure.

To address the identified shortcomings, we suggest stronger standardization, for example by providing additional guidance and restricting options that are currently provided

[2] PwC is a global network of independent firms specializing in audit, tax, and advisory services. With member firms in 157 countries and over 328,000 employees worldwide, PwC offers a vast pool of expertise in taxation, tax transparency, and EU regulation. Coupled with its extensive geographical coverage, this expertise renders PwC an appropriate partner to determine the national implementation of the public CbCR Directive.

[3] The survey was distributed within the PwC network on 13 October 2023. Responses were received between 17 October and 5 December 2023. That is, our analysis is based on data that was available until 5 December, but does not reflect the legal status as of 5 December for all member states. The respective (draft) law that we base our analysis on is provided in Appendix Table A.1 Further details on the survey and its distribution are provided in Section 3.1.

either implicitly or explicitly for transposing the directive into national law. To mitigate the discriminatory affectedness of EU MNEs, it is worth contemplating an expansion of the directive's scope. The personal scope could, for example, be extended to all non-EU domiciled MNEs with an EU representation *of any size*. Under this adjustment, the sole determining factor for both EU- and non-EU domiciled MNEs would be the turnover threshold. The imbalance in the share of operations to be disclosed on a disaggregated by-country basis could be remedied by prohibiting the aggregation of reporting for certain jurisdictions.

The remainder of the study is organized as follows. Section 2 provides an overview of the public CbCR Directive and reviews the extant literature. In Section 3, we analyze the implementation status among EU member states by means of an expert survey with PwC. We continue in Section 4 with an empirical analysis of the personal and material scope of the directive. Section 5 concludes.

2 Institutional Background

2.1 Public Country-by-Country Reporting in the EU

The introduction of public CbCR in the EU has been a lengthy and multifaceted process. Calls for public CbCR first emerged in 2003 when Richard Murphy, an associate of the Tax Justice Network, proposed that MNEs should disclose a balance sheet, income statement, and cash flow statement separately for each jurisdiction in which they operate as part of their public reporting (Murphy 2016). While the proposal sparked extensive discussions, it did not garner the necessary political consensus for implementation. However, the momentum for CbCR gained traction amidst a series of tax scandals that exposed the profit-shifting practices of large MNEs employing what were deemed "aggressive" tax arrangements. As public demands for countermeasures grew louder, the Organization for Economic Cooperation and Development (OECD) initiated a comprehensive 15-point action plan known as the BEPS project. One of the core objectives of the BEPS project was to enhance tax transparency and to strengthen collaboration among national tax authorities. Action Point 13, one of the four minimum standards of the BEPS project, provided a model CbCR standard.

Unlike Murphy's initial proposal, the OECD standard requires *confidential* reporting—rather than *public* disclosure—of selected financial metrics, including revenues, profit or loss before income tax, income taxes paid, income taxes accrued, stated capital, accumulated earnings, number of employees, and tangible assets other than cash and cash

equivalents to the national tax authorities (OECD 2015). This reporting obligation is applicable exclusively to MNEs with consolidated turnover exceeding EUR 750 million, effectively targeting only the largest corporations. The reports were intended to be made accessible solely to tax authorities, which then automatically exchange the information. The OECD standard was published in 2015 and has since been adopted by over 100 countries worldwide. Within the European Union, the standard was integrated through Directive 2016/881/EU.

Calls for public CbCR in the EU amplified following the OECD's confidential standard. Initially, sector-specific public CbCR regimes were endorsed: Directive 2013/36/EU for financial institutions and Directive 2013/34/EU for the extractive sector. These directives, though not primarily focused on tax transparency,[4] contributed to the broader objective. In 2016, alongside the adoption of the OECD's confidential CbCR standard, the EU Commission unveiled a proposal to introduce a cross-sector public CbCR regime. However, in 2019, the proposal failed in lack of a qualified majority, with 10 Member States contesting the legal basis of the directive (Council of the European Union 2019). No further discussions took place in 2020, but with the assumption of the Portuguese Council Presidency in January 2021, a new compromise proposal was published. In June 2021, the EU announced that a political agreement on the introduction of a public CbCR had been reached. The Parliament formally approved this directive proposal on 11 November 2021, which became effective on 21 December 2021 as EU Directive 2021/2101.

Directive 2021/2101 requires EU-headquartered MNEs whose turnover exceeds EUR 750 million in their two preceding financial years to publish a report within a certain period after the end of the financial year. MNEs that surpass the turnover threshold but are headquartered outside the EU are only subject to these reporting requirements if they have a

[4] Directive 2013/36/EU, also referred to as the Capital Requirement Directive IV, established a public CbCR regime for financial institutions within the EU. Initially aimed at implementing the Basel III regulations to bolster the stability of the banking sector post-financial crisis, the directive also mandates the disclosure of various financial metrics on a CbC basis. Similarly, Directive 2013/34/EU, known as the Accounting Directive, introduced a public CbCR for the extractive and logging industry. This directive required that companies in the extractive sector disclose particular payments to governments concerning raw material extraction and income taxes, primarily to combat instances of corruption and bribery.

medium- or large-sized subsidiary[5] or a qualifying branch[6] in the EU. The report has to contain the name of the affected MNE, the financial year concerned, the currency used and a description of the nature of the MNE's activities. Affected MNEs must further disclose the following information on a CbC basis: Number of employees, total net turnover, profit before taxes, income taxes due, income taxes paid in the current financial year and accumulated earnings. The directive is not immediately legally effective, but has to be transposed into national law by the member states. The directive leaves several options for the national implementation. We identify 13 options that relate to four broad categories: reporting obligation, reporting scope, reporting format and publication requirements. Table 1 provides an overview, with corresponding references to where the options are (explicitly or implicitly) stated in the directive. We explain the options in the following.

Table 1: Options left open by the EU for national implementation

Option	Reference	Category
Turnover threshold	Art. 48c No. 9	Reporting obligation
Effective implementation date	Art. 48g	Reporting obligation
Auditor obligations	Art. 48f	Reporting obligation
Preparation time	Art. 48d No. 1	Reporting obligation
Penalties for non-compliance	Paragraph 21	Reporting obligation
Jurisdictions for which by-country disclosure is required	Art. 48c No. 4	Reporting scope
Permitted data sources	Paragraph 14	Reporting scope
Safeguard clause	Art. 48c No. 6	Reporting scope
Permitted reporting formats (e.g., electronic, machine-readable, etc.)	Art. 48c No. 4	Reporting format
Permitted reporting languages	Art. 48d No. 2	Reporting format
Permitted reporting currencies	Art. 48c No. 8	Reporting format
Place of availability of the public CbC report	Art. 48d No. 3	Publication requirements
Report availability duration	Art. 48d No. 4	Publication requirements

Notes: The table provides an overview of the options left open for the transposition of EU Directive 2021/2101 into national law. Column "Reference" provides the corresponding reference to the location of the option in the directive. In column "Category" we assign the option to one of four broader topic categories.

Firstly, the general turnover threshold that triggers a reporting obligation amounts to EUR 750 million. However, member states have the option to convert this amount into national currencies using a fixed exchange rate. To achieve a round figure, adjustments of up to 5% are

[5] Based on Art. 3 of EU Directive 2013/34/EU, a subsidiary qualifies as medium- or large-sized if at least two of the following requirements are met: a balance sheet total of more than EUR 4-6 million, a net turnover of more than EUR 8-12 million, or an average number of employees of at least 50. Directive 2013/34/EU provides ranges for the balance sheet total and net turnover, allowing member states to select values within that range. For instance, one member state may consider a subsidiary medium- or large-sized if its balance sheet total exceeds EUR 6 million and net turnover exceeds EUR 12 million, while another member state might set the thresholds at EUR 4 million and EUR 8 million, respectively.

[6] Based on Art. 3 of EU Directive 2013/34/EU, a qualifying branch is assumed if it accounts for a net turnover of at least EUR 8-12 million, contingent on the threshold specified by the respective member state.

permitted after conversion. These adjustments, coupled with fluctuating exchange rates, may result in threshold deviations. Secondly, the directive requires effective implementation by 22 June 2024 at the latest, but member states may also opt for earlier implementation dates. Thirdly, member states may require statutory auditors to report whether the audited MNE was required to publish a CbC report and, if so, whether the MNE complied with this requirement. Fourthly, reports shall be prepared within twelve months following the end of the financial years at the latest, but member states may opt for shorter periods. Fifthly, member states have discretion in defining penalties for non-compliance with public CbCR requirements. Sixthly, the directive stipulates disaggregated CbC disclosures for all EU member states and countries on the EU list of non-cooperative tax jurisdictions (annexes I and II), but member states may include additional jurisdictions. Seventhly, the directive permits the use of four data sources for public CbC reports: consolidated financial statements, separate entity financial accounts, regulatory financial statements or internal management accounts. Eighthly, member states may decide whether to adopt a so-called safeguard clause allowing temporary omission of commercially sensitive information, limited to a maximum of five years and excluding data related to EU-listed non-cooperative jurisdictions. MNEs shall be required to indicate and provide a reason for the omission. Ninthly, the directive recommends an electronic, machine-readable format for reporting, to be specified by the EU Commission. Tenthly, while not mandating a specific reporting language, the directive suggests publication in at least one EU official language. Eleventhly, the directive does not specify a reporting currency but suggests using the same ones as used in the underlying financial accounts. Twelfthly, CbC reports should ideally be published on the MNEs' websites, with member states having discretion to waive this requirement if reports are available in a public register free of any charges and in an electronic and machine-readable format. Thirteenthly, the directive mandates a minimum availability period of five years, leaving member states with discretion to opt for longer periods. Note that this list is not necessarily exhaustive, as the directive represents a minimum standard and member states may implement stricter regulations in all aspects.

Considering the aforementioned design options, we argue that the establishment of a level playing field hinges on a homogeneous transposition of the directive into national law. A homogeneous transposition ensures a uniform group of affected MNEs across country borders, comparable information and compliance costs, and comparable accessibility and salience of the reports across member states, while simultaneously mitigating regulatory arbitrage opportunities. Therefore, to identify the introduction of potential disparities between MNEs

domiciled in different member states, we analyze the national implementation of the directive in Section 3.

At the same, the EU stresses that "[p]ublic scrutiny should be conducted without harming the investment climate in the Union or the competitiveness of Union undertakings" (European Union 2021, L 429/2). However, given the narrower scope of application for non-EU domiciled MNEs, it remains an empirical question whether there are indeed no disadvantages for EU domiciled MNEs that would harm the competitiveness of Union undertakings. Similarly, the restriction of the countries to be disaggregated to EU countries and selected non-EU countries might result in a discriminatory treatment. Therefore, to identify a potential disparity for MNEs domiciled within versus outside of the EU, we conduct an empirical analysis on the personal and material scope of the directive in Section 4 of this study.

2.2 Related Literature

Our study contributes to three literature strands in particular. The first strand examines the impact of public CbCR in reducing tax avoidance by large MNEs. Joshi et al. (2020) conduct a study on the impact of public CbCR on income shifting and tax avoidance in the banking industry. Their results are inconclusive, indicating that the introduction of the sector-specific regime reduced tax-motivated income shifting but did not seem to reduce the overall tax avoidance. Overesch and Wolff (2021) distinguish between banks with tax haven activities and those without, finding that effective tax rates increase only for banks with tax haven activities. Eberhartinger et al. (2021) investigate the tax haven representation of European banks after the introduction of public CbCR. They find that the number of tax haven subsidiaries decreases in contrast to insurance firms that remain unaffected from the disclosure regime. Collectively, these findings suggest that public CbCR has the potential to curtail international profit shifting by large MNEs, thereby leveling the playing field between MNEs and small, domestic firms. However, the precise mechanism driving the observed reduction in tax avoidance remains ambiguous. The introduction of the CbCR regime for the EU banking sector as a public initiative raises questions regarding whether the observed effects stem from public scrutiny or scrutiny by tax authorities. For instance, De Simone and Olbert (2022) observe a reduction in tax haven subsidiaries of large MNEs falling under the confidential CbCR regime, suggesting that oversight by tax authorities plays a significant role in shaping outcomes. Our contribution to this line of inquiry underscores potential challenges to achieving a level playing field inherent in the "public" aspect of CbCR.

The second literature strand investigates the expected costs from the perspective of affected MNEs. Johannesen and Larsen (2016) examine investor reactions to the introduction of a public CbCR regime in the EU for the extractive and logging industry. The authors find a significant value loss of affected firms ranging between -5% to -10%. Similarly, Dutt et al. (2019) undertake an analysis of investor reactions following the implementation of public CbCR in the EU banking sector. In contrast to Johannesen and Larsen (2016), they fail to identify a significant effect on the stock returns of the affected banks. They posit that investors seemingly anticipate a simultaneous reduction in tax avoidance (implying a negative stock price movement) and a decrease in information asymmetry between managers and shareholders (implying a positive stock price movement), effectively offsetting each other. The contrasting findings of Johannesen and Larsen (2016), lead the authors to further propose that investor reactions to industry-specific transparency regimes may not necessarily extend to other industries or contexts. In this context, the study by Müller et al. (2021), who examine investor reactions to the announcement of a preliminary political agreement on Directive 2021/2101, offers the most closely related insights into the expected costs and benefits from an investor perspective. The authors document a negative investor reaction, resulting in an estimated cumulative firm value loss between EUR 48-65 billion. Additional cross-sectional tests reveal that this loss can be attributed to two distinct cost factors. The first factor is reputational costs, stemming from concerns about (potentially unwarranted) public scrutiny, e.g. in the form of negative press coverage or consumer backlashes. The second factor is proprietary costs incurred due to the obligatory disclosure of global value chains by affected firms, creating disparities with non- or less-affected competitors.

Reputational costs in the context of tax reporting have been a subject of investigation in several studies, shedding light on their significance for both corporate managers and investors (Hanlon and Slemrod 2009; Graham et al. 2014; Müller et al. 2021; Brühne and Schanz 2022). However, empirical research on the materialization of reputational costs presents a contrasting picture, indicating that consumers do not engage in boycotts of tax-avoiding firms (Asay et al. 2024) and that there is no discernible increase in CEO or CFO turnover within a three-year period following the public disclosure of tax sheltering activities (Gallemore et al. 2014). In light of the lack of demonstrable reputational costs in these instances, their inclusion in investors' and managers' decision-making process appears irrational. The materialization of proprietary costs, on the contrary, is less researched. Various studies indicate that a public CbC disclosure of financial information may harm the competitive

position of affected firms (Evers et al. 2014; Cockfield and MacArthur 2015; Forstater 2017; Dutt et al. 2020), in particular if it applies to individual firms of specific size or regions. Recent studies suggest that proprietary costs are responsible for reduced *voluntary* corporate disclosure in competitive markets (Ellis et al. 2012; Huang et al. 2017) and for growing firms (Prencipe 2004). In the context of geographic segment reporting, empirical evidence suggests that firms aggregate financial items for growing and profitable regions (Leung and Verriest 2019). Since the directive was only recently introduced, it is currently not possible to assess if proprietary costs indeed materialize. However, we contribute to this literature strand by examining the personal and material scope of the directive, thereby deriving early indication on potential proprietary costs. Firstly, we find that the majority of affected MNEs are headquartered in the EU. Secondly, within the group of affected MNEs, those located in the EU are potentially required to disclose higher proportions of their global operations on a CbC basis compared to their non-EU counterparts.

The third strand deals with the normative assessment of Directive 2021/2101 and its implementation in individual member states. Verloove et al. (2022) criticize the growing administrative burden for affected MNEs, which they argue also results from deviations in the definition of reportable items between the public CbCR Directive and confidential CbCR, respectively voluntary public CbCR standards, such as GRI 207 in the context of sustainability reporting. The fact that deferred taxes—unlike under confidential CbCR—do not have to be published is considered problematic, as this may result in a distorted picture of the tax burden and allow for misinterpretations (Kirsch 2023). Regarding the safeguard clause, Loureiro (2022) criticizes that the undefined term "seriously prejudicial" in the directive grants firms and tax authorities considerable discretion in determining whether specific information is deemed harmful, thereby permitting temporary omission of the information from the CbC reports. Moreover, he notes a potential lack of harmonization concerning language and sanctioning regimes as well as a missed opportunity to require a central depository across member states. Such discrepancies could result in inefficient outcomes. Further research assesses individual elements of the directive. Müller and Müller (2022) criticize the fixed exchange rate for converting the turnover threshold that triggers the reporting requirement. Conceptually, various authors point out that public CbCR might violate the tax secrecy in certain member states (Evers et al. 2014; Dutt et al. 2020; Müller and Müller 2022). Further researchers have normatively assessed the national implementation of the public CbCR Directive in individual member states. As an example, Kirsch (2023) and Eichholz (2023) note

that the German transposition is close to the wording of the directive and has been carried out as carefully as possible in the interests of the MNEs, preserving the existing options. We contribute to this literature strand by providing a comprehensive analysis of the EU's public CbCR implementation. To the best of our knowledge, we are the first to provide a cross-country assessment of the public CbCR implementation and to assess how homogeneously the directive was implemented. In contrast, prior research either focused on the assessment of the directive itself or on the implementation in individual member states.

3 Comparative Analysis of EU-wide Implementation

3.1 Survey

We start our analysis by examining the national implementation of Directive 2021/2101. In order to obtain an overview of the current implementation status of the public CbCR Directive, we set up a survey in cooperation with PwC to enquire about the specific design choices made by the individual member states regarding the options presented in Table 1. We categorize the design options into four broad topics: reporting obligation, reporting scope, reporting format and publication requirements. Subsequently, we formulate 16 questions, to inquire about the utilization of these design options by member states.

The survey starts with an introductory question asking whether the respective member state has (1) implemented the directive into national law, (2) published draft law but did not implement the directive or (3) neither implemented the law, nor has draft law available. If a member state has neither implemented the law, nor has draft law available, the survey was finished at this point. In the remaining cases, we asked for the name and the implementation (publication) date of the respective (draft) law the survey responses are based on. The survey then proceeded with the 16 questions on the design choices.

Questions 1-6 address the reporting obligation. Participants were asked to provide the exact revenue threshold triggering the reporting obligation, specifying the currency and providing the exchange rate to EUR, if applicable (Q1). Next, we asked for the effective implementation date of the reporting obligation (Q2). In the third question, participants were surveyed on the role of auditors, specifically whether they are required to disclose an MNE's obligation to publish a CbC report and, if so, whether the MNE complied with the obligation. Participants should also detail where, when, and how the auditor's note must be disclosed (Q4). Question 5 addressed the preparation time granted to the reporting entities, asking when the

report on income tax information must be published at the latest. Finally, participants were asked about the penalties for non-compliance with the reporting obligation, providing insight into the regulatory consequences associated with failing to meet the directive's requirements (Q6).

Questions 7-11 relate to the reporting scope, asking participants which jurisdictions are to be disclosed on an aggregated or disaggregated basis (Q7) and which data sources (i.e., consolidated financial statements, separate entity statutory financial statements, regulatory financial statements and internal management accounts) are permitted (Q8). Furthermore, participants were asked to provide information on the possibility to defer public disclosure, asking whether a safeguard clause was implemented (Q9) and, if so, for which items and jurisdictions (Q10) and for how long (Q11) a deferral is possible.

Questions 12-14 are linked to the reporting format, asking participants whether the reports have to be filed electronically and in a machine readable format (Q12) as well as which languages (Q13) and currencies (Q14) are permitted for setting up the report. Finally, questions 15-16 relate to the publication requirements, asking participants to explain where (Q15) and for how long (Q16) the reports have to be made publicly available.

The survey was sent to PwC Germany on 13 October 2023 and subsequently distributed within the PwC network across all EU member states. The survey was set up as a word document and pre-filled with the relevant provisions from the directive, to guide the respondents with regard to the objective of the question and the expected extent of the answers. The survey remained open for eight weeks, concluding on 8 December 2023. Survey responses were received between 17 October and 5 December 2023.[7] When explaining and interpreting our results, we therefore do not refer to a specific cut-off date, but to the date on which we received the response from the respective country (henceforth referred to by the term "by the time of analysis"). We provide an overview on the specific (draft) laws forming the basis of our analysis in Appendix Table A.1.

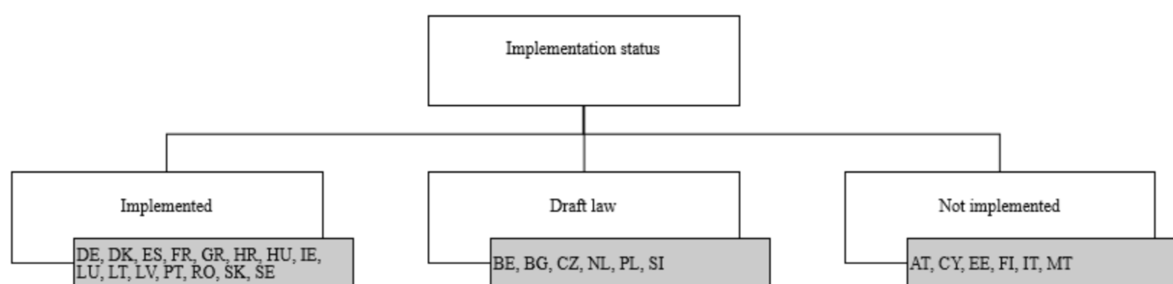
3.2 Implementation Status

The survey responses document that 15 countries have implemented the public CbCR Directive into their national laws, by the time of analysis. Romania was the first to implement

[7] Where survey responses were ambiguous or unclear, we asked clarifying questions after the survey was closed and otherwise consulted secondary sources or automatic translations of the implementation/draft laws. Where applicable, we indicate the specific sources below the respective tables and figures.

it on 7 September 2022. The remaining countries (Croatia, Denmark, France, Germany, Greece, Hungary, Ireland, Luxembourg, Lithuania, Latvia, Portugal, Slovakia, Spain and Sweden) have passed their implementation laws between 21 November 2022 and 15 November 2023. Six countries—namely Belgium, Bulgaria, the Czech Republic, the Netherlands, Poland and Slovenia—have drafted laws, which have not yet passed legislation. The remaining six countries—Austria, Cyprus, Estonia, Finland, Italy and Malta—did not have an implementation or draft law available. Figure 1 summarizes the implementation status.[8]

Figure 1: Implementation Status



Notes: The figure provides an overview of the current implementation status based on the surveys answered by PwC. For Finland and France, the corresponding information was taken from secondary sources (KPMG 2024; Xygka 2023).

3.3 Reporting Obligation

Out of the 21 member states with either implemented or drafted laws, 17 stipulate that the reporting obligation commences for financial years starting on or after 22 June 2024. Notably, Romania (1 January 2023), Croatia (1 January 2024) and Sweden (31 May 2024) have earlier starting dates, while Bulgaria stands as the sole member state with a later starting date (1 January 2025). Except for Hungary, Ireland and Spain, all member states require affected MNEs to publish their CbC reports within 12 months after the balance sheet date. Slovenia has not determined the preparation time, yet. In Hungary, the CbC reports are to be filed together with the consolidated financial statement (annual report) of Hungarian parent entities (standalone undertakings), which have to be filed within 6 months (5 months) after the balance sheet date. In Ireland, the report must be published 56 days after the annual return date, which can vary for each MNE and be up to 9 months after the balance sheet date. Conversely, in Spain, MNEs are obliged to publish the CbC reports within 6 months after the balance sheet date. These temporal differences regarding the commencement of the reporting obligation and the granted preparation time lead to variations in the publication dates across countries.

[8] For the purpose of our analyses, we exclude member states without enacted laws or draft legislation. Member states with draft legislation are considered as if the provisions in the draft law were final.

However, as major parts of these disparities disappear once the reporting obligations have started in all member states, we do not anticipate significant exploitation for regulatory arbitrage. With the exception of Croatia, all member states require the statutory auditor to include a note indicating whether a MNE is subject to a public CbCR obligation,[9] as well as to confirm its compliance with the obligation. In Croatia, the auditor is only required to note the MNE's compliance with such obligations.

Table 2: Reporting Obligation

Country	Effective start of reporting obligation	Preparation time	Revenue threshold [in million]	Auditors required to report on…	
				...reporting obligation?	*…compliance with reporting obligation?*
Belgium	22 June 2024	12 months	EUR 750	x	x
Bulgaria	1 January 2025	12 months	BGN 1,500	x	x
Croatia	1 January 2024	12 months	EUR 750	-	x
Czech Republic	22 June 2024	12 months	CZK 19,000	x	x
Denmark	22 June 2024	12 months	DKK 5,600	x	x
France	22 June 2024	12 months	EUR 750	x	x
Germany	22 June 2024	12 months	EUR 750	x	x
Greece	22 June 2024	12 months	EUR 750	x	x
Hungary	22 June 2024	5-6 months	HUF 275,000	x	x
Ireland	22 June 2024	56 days after the annual return date	EUR 750	x	x
Latvia	22 June 2024	12 months	EUR 750	x	x
Lithuania	22 June 2024	12 months	EUR 750	x	x
Luxembourg	22 June 2024	12 months	EUR 750	x	x
Netherlands	22 June 2024	12 months	EUR 750	x	x
Poland	22 June 2024	12 months	PLN 3,500	x	x
Portugal	22 June 2024	12 months	EUR 750	x	x
Romania	1 January 2023	12 months	RON 3,700	x	x
Slovakia	22 June 2024	12 months	EUR 750	x	x
Slovenia	22 June 2024	To be determined	EUR 750	x	x
Spain	22 June 2024	6 months	EUR 750	x	x
Sweden	31 May 2024	12 months	SEK 8,000	x	x

Notes: The table presents information on the reporting obligation based on the surveys answered by PwC. The information for France was collected from secondary sources (KPMG 2023a, 2024; PwC 2023).Unless otherwise stated, the preparation time is stated as the period of time after the balance sheet date.

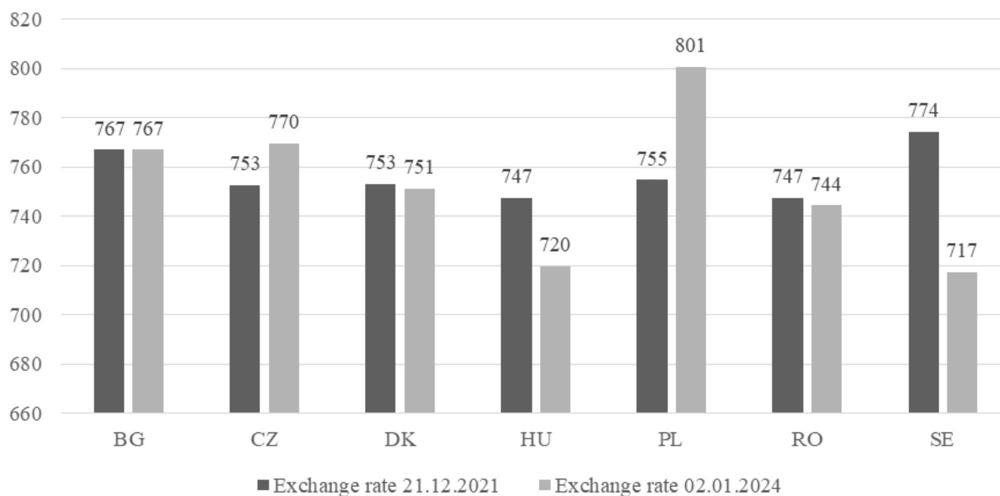
Member states that have adopted the Euro as their national currency have adhered to the proposed EUR 750 million threshold for triggering the reporting obligation. The remaining member states state a converted value in their national currency. While the directive required conversion at the exchange rates published in the Official Journal of the EU on 21 December 2021, member states were permitted a deviation of up to 5% to round the threshold figure. As illustrated in Figure 2, most member states deviated upwards, setting a higher threshold (dark

[9] The corresponding auditor note is typically to be provided along with the audited financial statements. We provide an overview in Appendix Table A.2.

grey bars), which is in line with the argument that the reporting obligation is costly for affected MNEs.

The use of fixed exchange rates results in disparities, as exchange rate fluctuations may lead to significant differences in threshold values. For instance, using the latest available exchange rates from the Official Journal of the EU, threshold values range between the equivalent of EUR 717 million in Sweden and EUR 801 million in Poland. These disparities may provide MNEs with opportunities for regulatory arbitrage, albeit with unpredictable planning outcomes: Sweden, initially with the most attractive threshold as of 21 December 2021, now finds itself in the least attractive position with the lowest threshold as of 2 January 2024.

Figure 2: Turnover Threshold Fluctuations



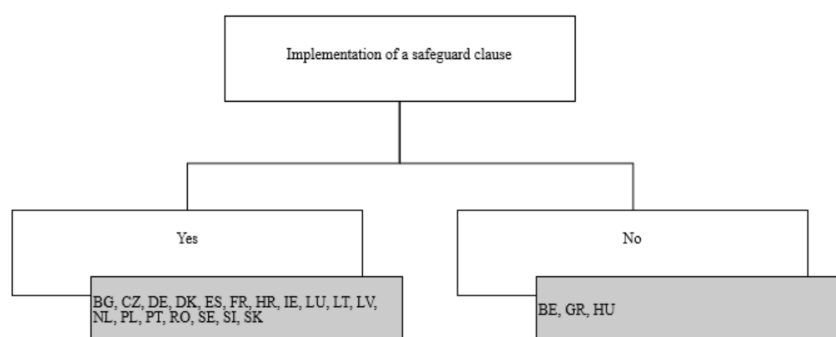
Notes: This figure illustrates the turnover threshold values that trigger a reporting obligation according to the national provisions in the respective member states. The public CbCR Directive requires a conversion of the EUR 750 million value into local currencies based on exchange rates as of 21 December 2021 (dark grey bars). Exchange rate fluctuations between then and the most recent available exchange rates as of 2 January 2024 result in substantial deviations in the converted threshold amounts (light grey bars). Exchange rates are sourced from the Official Journal of the European Union as of 21 December 2021 and 2 January 2024. Values are stated in million Euros.

Additional heterogeneity arises from the wide range of penalties associated with non-compliance regarding the reporting obligation. Penalties vary significantly, ranging from minor fines of a few hundred Euros to substantial amounts in the several hundred thousand. Notably, in Ireland and Poland, non-compliance may even result in imprisonment fines. Given the highly case-specific nature of these penalties, direct comparisons are impractical. An overview of the diverse range of penalties is therefore provided in Appendix Table A.2.

3.4 Reporting Scope

The options most likely to compromise the comparability of reports and to cause severe disparities across member states are related to the reporting scope. To mitigate concerns over competitive disadvantages of affected MNEs, the directive included a so-called "safeguard clause", providing member states with the opportunity to allow a temporally limited deferral of disclosures that would harm the competitiveness of affected MNEs. As illustrated in Figure 3, Belgium, Greece and Hungary do not provide for a safeguard clause, while the remaining member states with an implemented or drafted law allow for a temporally limited[10] deferral. Consequently, MNEs obligated to report in a member state with a safeguard clause may scrutinize the timely provided information of their competitors or partners in member states lacking such clauses, while they themselves are only required to disclose their information after a significant delay. This disparity poses the risk of creating opportunities for regulatory arbitrage among member states, particularly for MNEs domiciled outside the EU.[11]

Figure 3: Temporal Deferral of Disclosure of Specific Items



Notes: The figure presents information on the option to temporarily defer the disclosure of specific items based on the surveys answered by PwC. Information for France was collected from KPMG (2023b).

The effectiveness of the disclosure measure also depends on the published information being decision-useful (see IFRS Foundation (2018) in the context of financial reporting). This presupposes a certain degree of comparability. The directive leaves it up to the member states to decide which figures the reports may be based on. As with the OECD standard for confidential CbCR, Directive 2021/2101 suggests that consolidated financial accounts, separate entity financial accounts, regulatory financial accounts and internal management

[10] Not all experts provided the maximum number of years for which the deferral is granted, but those who did, indicated that the deferral is allowed for a maximum of 5 years, which aligns with the suggestion in the directive.

[11] A non-EU domiciled MNE might include the existence of a safeguard clause in its location decision when entering the EU Single Market through a large- or medium-sized subsidiary or qualifying branch. In contrast, the relocation of an EU domiciled MNE to another EU country based on the existence of a safeguard clause is rather unlikely.

accounts be permitted.[12] The respective implementation choices with regard to permitted data sources are displayed in Table 3. Seven member states (Denmark, Greece, Latvia, Luxembourg, the Netherlands, Slovenia and Spain) chose to allow all four data sources. Five member states (Bulgaria, Croatia, Romania, Slovakia and Sweden) only allow the usage of consolidated and separate entity financial accounts. The (draft) laws of the remaining nine member states (Belgium, Czech Republic, Germany, France, Hungary, Ireland, Latvia, Poland and Portugal) remain silent about the permitted data source. Overall, the disparities in permitted data sources lead to frictions across member states. Less stringent requirements provide MNEs with more discretion when determining the respective items, thereby potentially affecting the corresponding reputational and proprietary costs.

All countries require that EU member states and jurisdictions on the EU list of non-cooperative jurisdictions for tax purposes be disclosed on a CbC basis. However, Belgium and France adopt a broader approach. Belgium maintains an additional national list of states with a low or zero taxation, which have to be disclosed on a CbC basis as well, while France requires the additional disaggregated disclosure of all European Economic Area member states. A corresponding overview is provided in Appendix Table A.2.

[12] Each of these data sources have distinct shortcomings. For example, consolidated accounts do not include intra-group transaction, which are fundamental to identify profit shifting channels. Unconsolidated accounts may result in double counting issues. Regulatory financial accounts may include correction. Internal management accounts do not follow any specific accounting rules and may hence be manipulated by firms. For a detailed discussion of the individual shortcomings, see Evers et al. (2016).

Table 3: Reporting Scope and Format

Country	Permitted data sources				Permitted languages	Permitted currencies
	Consolidated financial statements	*Separate entity statutory financial statements*	*Regulatory financial statements*	*Internal management accounts*		
Belgium	Not specified				One of the official languages of the EU	No particular provisions
Bulgaria	x	x	-	-	Bulgarian	Same as used in the consolidated/standalone financial statement
Croatia	x	x	-	-	One of the official languages of the EU	Same as used in the consolidated/standalone financial statement
Czech Republic	Not specified				Czech or English	CZK or any functional currency accepted by the Czech law (i.e., EUR, USD, GBP); same as used in the financial statement
Denmark	x	x	x	x	Danish or English	EUR or any functional currency; same as used in the financial statement
France	No information identified				French	No particular provisions identified
Germany	Not specified				German	Currency used depends on the respective obligated unit (generally EUR)
Greece	x	x	x	x	Greek or English	Same as used in the consolidated/standalone financial statement
Hungary	Not specified				One of the official languages of the EU	EUR or any functional currency; same as used in the financial statement
Ireland	Not specified				One of the official languages of the EU (but translation into either English or Irish required when wholly/partly in other language)	Same as used in the consolidated financial statements
Latvia	x	x	x	x	Latvian	EUR or any functional currency; same as used in the financial statement

Lithuania	Not specified				One of the official languages of the EU	EUR or any functional currency; same as used in the financial statement
Luxembourg	x	x	x	x	English	EUR or any functional currency; same as used in the financial statement
Netherlands	x	x	x	x	One of the official languages of the EU	EUR or any functional currency; same as used in the financial statement
Poland	Not specified				Polish	Polish Złoty (PLN)
Portugal	Not specified				Same language of financial statements, but at least one of the official languages of the EU	Same as in the ultimate parent or standalone undertaking's financial statements
Romania	x	x	-	-	Romanian (but if published by UPE, any official language of the EU is accepted)	EUR or any functional currency; same as used in the financial statement
Slovakia	x	x	-	-	One of the official languages of the EU	EUR or any functional currency; same as used in the financial statement
Slovenia	x	x	x	x	Slovene	EUR or any functional currency; same as used in the financial statement
Spain	x	x	x	x	One of the official languages of the EU	EUR or any functional currency; same as used in the financial statement
Sweden	x	x	-	-	Swedish (but if demanded by the business registered in another country, any official EU language, Norwegian or Icelandic can be used)	SEK or any functional currency; same as used in the financial statement

Notes: The table presents information on the underlying data sources permitted as well as the language and the currency permitted to create public reports based on the surveys answered by PwC. Information for France was collected from KPMG (2024).

3.5 Reporting Format and Publication Requirements

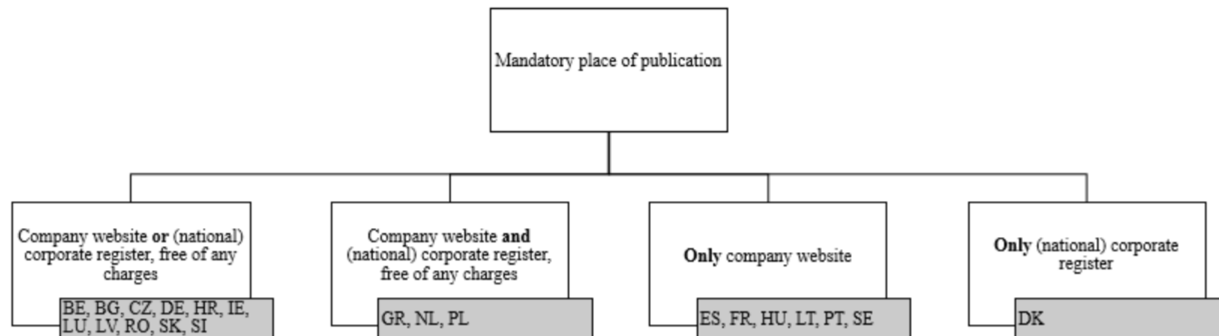
Lastly, the usefulness of public CbCR depends on the accessibility of the information. Accessibility is, inter alia, characterized by a standardized use of language and currency, as well as a high availability of reports. Among member states that have implemented the directive into national law or provided draft laws for implementation, reports must adhere to a standardized electronic and machine-readable format, with further specifications outlined by the EU. However, there are notable disparities regarding permitted languages and currencies, as outlined in Table 3.

Regarding reporting languages, member states can be divided into four broad categories. Nine member states—Belgium, Croatia, Hungary, Ireland, Lithuania, the Netherlands, Portugal, Slovakia and Spain—allow the usage of any official EU language, providing affected MNEs with high flexibility. However, Ireland requires a translation into English or Irish, if another language is used. Eight member states—Bulgaria, France, Germany, Latvia, Poland, Romania, Slovenia, and Sweden—require that CbC reports be filed in the respective national language. Denmark, Greece, and the Czech Republic allow the use of English alongside the national language, while Luxembourg is the only country, which requires English as the sole permitted reporting language. Regarding reporting currencies, Poland is the only country to require a specific currency, the Polish Zloty. France and Belgium did not provide further specifications on permitted currencies. The remaining member states align with the directive, requiring the same currency used in the consolidated or separate financial statements.

Concerning report availability, the directive proposes that MNEs be required to make the reports available on the company website. However, the obligation to publish the reports on the company website is to be waived if MNEs store the reports free of charge in a central commercial register and refer to them on their website. Figure 4 illustrates the corresponding survey results. With Belgium, Bulgaria, the Czech Republic, Germany, Croatia, Ireland, Luxembourg, Latvia, Romania, Slovakia and Slovenia, eleven member states followed the provisions in the directive. Greece, the Netherlands and Poland require reports to be published on both company websites and national registers. Spain, France, Hungary, Lithuania, Portugal and Sweden require that the reports are published on the company website, irrespective of whether the reports are also freely available in a national register. Denmark requires the reports to be published in a national register, irrespective of whether the report is also available on the company website. The disparity in these requirements is particularly concerning, given that the primary dissemination channel is through

public disclosure rather than confidential reporting. The increased search costs associated with finding and accessing these reports present a substantial barrier for the public, thus undermining the intended objective of exerting public pressure. The fact that affected MNEs domiciled in certain countries have more discretion to make the reports inaccessible (e.g. by requiring multiple clicks to actually get to the report on the website) again leads to frictions between member states.

Figure 4: Place of Publication



Notes: The figure presents an overview of the places where the reports have to be published. The information is based on survey answered by experts from PwC in the respective countries. Information for France was collected from KPMG (2023a).

In summary, our analysis reveals significant disparities in the national implementation of Directive 2021/2101. The main disparities result from (1) different reporting thresholds, which may vary substantially across member states due to exchange rate fluctuations, (2) the absence of a safeguard clause in a certain member states, (3) the admissibility of different data sources even within a single member state, which complicates the comparison and interpretation of the reports and (4) the variety in locations where the reports are to be made available. These variations, particularly in reporting thresholds and safeguard clauses, may provide opportunities for regulatory arbitrage. Whether MNEs exploit these opportunities remains an empirical question for future research once the reporting obligation has effectively started.

4 Empirical Analysis on Personal and Material Scope of the Directive

4.1 Methodological Approach

After conducting a comprehensive comparative legal analysis to assess the current implementation status of the public CbCR Directive, we proceed with an empirical analysis on the personal and material scope of the directive. Therefore, we conduct a descriptive analysis of MNEs that exceed the reporting threshold of EUR 750 million in their last two preceding financial years.

We thereby distinguish three groups of MNEs that we assume to experience different levels of affectedness. The first group comprises MNEs affected by the public CbCR obligation and domiciled in the EU ("affected & EU"). These firms are likely to experience the strongest level of affectedness, given the necessity to disclose a significant portion of their business operations on a disaggregated country-level basis. The second group comprises MNEs affected by the regulation but domiciled outside of the EU ("affected & non-EU"). While these firms must comply with the public CbCR obligation, the extent of operations requiring disaggregated country-level disclosure is presumably less extensive, resulting in a weaker level of affectedness compared to the first group. The third group comprises MNEs outside the directive's scope, due to lacking a sufficiently large subsidiary or branch in the EU ("unaffected").

We begin our sampling process with the universe of active firms in Bureau van Dijk's (BvD) flagship database Orbis. We filter for firms surpassing the turnover threshold of EUR 750 million during their two most recent financial years. To ensure that we solely include the ultimate parent firm of MNEs, we require firms to be classified as their own global ultimate owner in Orbis. Moreover, we require that Orbis provides financial information from consolidated accounts for our sample firms, with the latest available financial year being 2021 or later.[15] We drop firms whose standardized legal form is "Branches" or "Foreign Companies" (as we are only interested in the parent firm of a group), respectively "Non-profit organizations" or "Public authorities" (as these are not relevant for the purpose of our analysis). Our procedure results in a final sample of 6,747 parent firms.

Next, we retrieve ownership information for these parent firms from Orbis. We identify 2,690,946 unique subsidiaries and branches with identifiable country locations.[16] Based on legal form and financial account data from Orbis, we determine for each subsidiary if it qualifies as large-or medium-sized subsidiaries, respectively as a qualifying branch, that triggers a reporting obligation for MNEs headquartered outside of the EU.[17] Using this information alongside the

[15] The most recent available version of the Orbis Generic Flat Files at the date of analysis covers data until June 2023, rendering 2021 a reasonable cutoff year. We discuss potential data limitations in Section 4.4.

[16] We take into account all subsidiaries and branches that have one of the parent firms in our sample classified as their GUO50C or GUO25C in Orbis.

[17] We determine branches through the standardized legal form variable in Orbis. According to Bureau Van Dijk (2023) branches are classified either as "Branches" or "Foreign Companies". To determine if a subsidiary/branch meets the size criteria to trigger a reporting obligation, we apply the lower bounds defined in Directive 2013/34/EU, Art. 3, which results in the highest possible number of "affected & non-EU" firms. In robustness checks we find that applying the upper bounds results in 55 less "affected & non-EU" firms, which—however—has no impact on

location of the parent firms, we identify 3,154 parent firms to fall within the scope of the directive (henceforth referred to as "affected" firms). We segregate the affected firms into 1,436 firms headquartered in the EU ("affected & EU" firms) and 1,718 firms headquartered outside of the EU ("affected & non-EU" firms). The remaining 3,593 firms do not have an observable EU representation in the form of headquarters, a medium- or large-sized subsidiary or a qualifying branch and should thus not be affected by the directive ("unaffected" firms).

4.2 Descriptive Analysis of Affected and Unaffected Firms

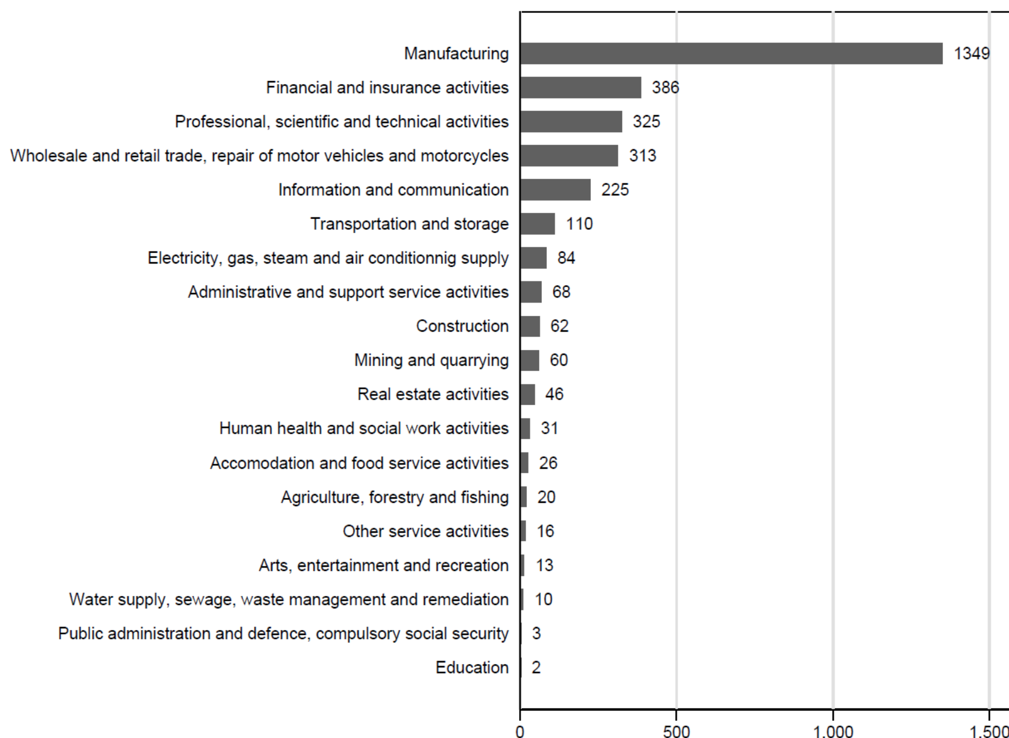
The average affected (unaffected) MNE in our sample has total assets of EUR 18.3 billion (EUR 9.7 billion), operating revenues of EUR 10.4 billion (EUR 5.2 billion), profits after taxes of EUR 767 million (EUR 339 million) and 25,579 (15,213) employees in its last available consolidated accounts. The observed larger size of affected MNEs is in line with expectations, considering that unaffected firms, by definition, lack substantial representation in the EU, resulting in reduced exposure to the EU Single Market. In additional untabulated findings, we note that the majority of affected MNEs is structured as either public limited (78.6%), or private limited companies (15%). Partnerships (3.8%) and other legal forms constitute a minority share.

Figure 5 shows a breakdown of affected MNEs by industry affiliation. More than one third of our affected sample firms operate in the manufacturing industry. The second most represented sector is the financial and insurance sector (which was previously already subject to the sector-specific public CbCR regime). "Professional, scientific and technical activities", "Wholesale and retail trade, repair of motor vehicles and motorcycles", and firms in the "information and communication" sector complete the top five industry sectors.[18]

the implications of our results. Following the same logic as for the parent firms, we require subsidiaries and branches to have their last available financial year in 2021 or later to consider them for treatment allocation.

[18] For better readability, figures for unaffected firms were omitted. There are, however, no apparent systematic differences in terms of industry affiliation.

Figure 5: Breakdown of Affected Firms by Industry Sector

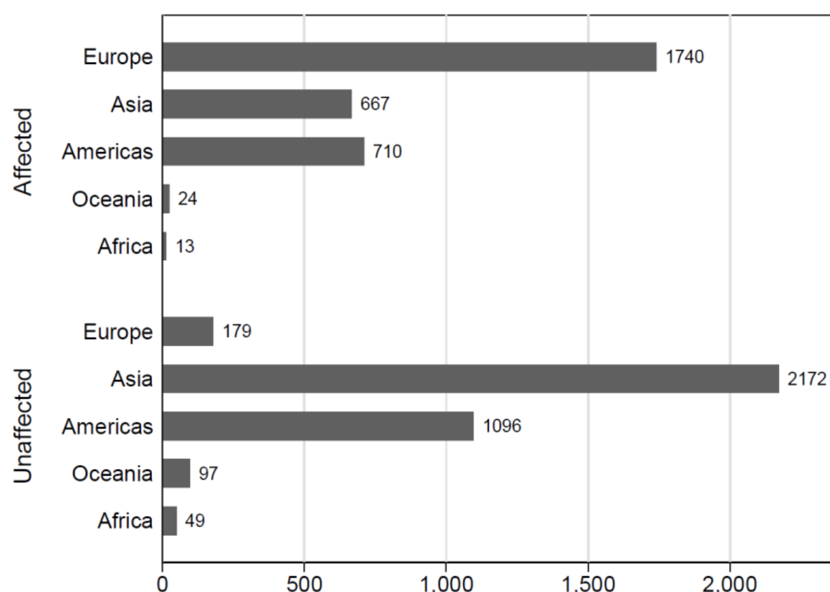


Notes: The figure provides a breakdown of affected MNEs by industry sector.

Next, we proceed to analyze the geographical distribution of our sample firms, to identify potential disparities resulting from the directive's personal scope. Figure 6 presents headquarter locations of affected and unaffected MNEs by continent. Unsurprisingly, Europe emerges as the continent with the highest number of affected MNEs, totaling 1,740 or 55.2% of the sample. The Americas (710 firms or 22.5%) and Asia (667 firms or 21.1%) represent the continents with the second and third highest number of affected MNEs. In contrast, Oceania and Africa play a negligible role in the overall distribution.

For unaffected MNEs, Asia dominates with 2,172 headquarter locations, constituting 60.5%. This highlights that while a considerable number of Asian firms fall under the purview of the directive, a much larger share is exempt from the public reporting obligation. The same applies for firms from the Americas which constitute 30.5% of the unaffected firms. 5% of the unaffected firms are headquartered in Europe. These include MNEs from countries located in Europe that do not belong to the EU, such as the United Kingdom or Switzerland.

Figure 6: Headquarter Location of Affected and Unaffected Firms by Continent



Notes: The figure provides a breakdown of headquarter locations by continents for affected (upper panel) and unaffected (lower panel) firms.

Moving from the continent-level to the country-level, Table 4 shows the top 10 headquarter countries for both affected and unaffected firms. Among affected MNEs, the United States (19.2%), Germany (11.7%) and Japan (10.9%) are the most frequent headquarter locations. In addition to Germany, five other EU countries rank among the Top 10 countries, including Italy (5.2%), France (4.9%), the Netherlands (4.0%), Sweden (3.5%) and Spain (3.4%).

Table 4: Top 10 Headquarter Countries of Affected and Unaffected Firms

Affected Firms			Unaffected Firms		
Country	**Count**	**Share [in %]**	**Country**	**Count**	**Share [in %]**
USA	606	19.2	China	783	21.8
Germany	370	11.7	USA	690	19.2
Japan	345	10.9	Japan	497	13.8
United Kingdom	184	5.8	South Korea	258	7.2
Italy	163	5.2	India	157	4.4
France	155	4.9	Taiwan	156	4.3
Netherlands	125	4.0	Cayman Islands	132	3.7
Sweden	111	3.5	United Kingdom	127	3.5
Spain	106	3.4	Canada	98	2.7
China	95	3.0	Australia	76	2.1

Notes: The table depicts the most frequent headquarter locations of affected and unaffected sample firms. "Count" indicates the absolute number of sample firms headquartered in the respective country. "Share [in %]" indicates the share of affected (respectively unaffected) firms headquartered in the respective country.

For unaffected MNEs, the top three headquarter countries are China (21.8%), the United States (19.2%) and Japan (13.8%). The United Kingdom is the sole European country within the top 10 headquarter country locations for unaffected firms. Interestingly, the Cayman Islands are part of the top ten headquarter countries with a share of 3.7% of unaffected MNEs in our sample. India, Taiwan, Canada and Australia complete the top 10 list.

The location analysis suggests a potential discrimination against European firms when compared to Asian and American MNEs, resulting from the personal scope of the directive. While American and Asian MNEs are affected by the regulation in nearly equal proportions, the number of European MNEs is twice as high. Most affected EU firms are domiciled in the three largest economies: Germany, Italy and France. The question arises whether the material scope results in a similar discrimination of EU firms. We address this question in the following section by the "affected & EU" firms with the "affected & non-EU" firms.

4.3 Heterogeneous Impact on Affected Firms

To examine heterogeneous levels of affectedness between "affected & EU" firms and "affected & non-EU" firms, we aggregate selected financial items (i.e., employees, total assets, revenues, profit before and after taxes and taxes paid) from unconsolidated financial statements of subsidiaries and branches at the country-level. That is, we aggregate the respective items for all representations in EU member states and countries on the EU blacklist for the three sample groups and divide them by the corresponding totals. The resulting ratios act as proxies for the proportion of operations that (hypothetically) require disclosure on a CbC basis. The corresponding mean ratios are depicted in Table 5.

The findings reveal that affected EU firms have approximately 72% of their subsidiaries and branches located in countries requiring disaggregated disclosures. In contrast, affected non-EU firms face this requirement for only about 17% of their subsidiaries and branches. Across all examined parameters, the mean ratio is notably higher for "affected & EU" firms, averaging between 83% and 91%. This represents an approximate 50-percentage point difference compared to "affected & non-EU" firms, whose ratios range from 33% to 40%. Importantly, "affected & non-EU" firms are roughly 25 percentage points more affected than "unaffected" firms if they were subject to public CbCR in its current form.

Table 5: Mean Share of Operations to be Disclosed on a CbC basis

Variable	Affected & EU	Affected & non-EU	Unaffected
# Subsidiaries & Branches	72.3%	17.5%	3.4%
Employees*	83.9%	33.0%	2.4%
Total Assets	90.7%	40.2%	8.0%
Revenues*	84.1%	34.0%	1.7%
Profit or Loss before taxes*	88.0%	37.1%	5.3%
Taxes paid*	86.3%	37.1%	5.0%
Profit or Loss after taxes	88.8%	39.5%	6.8%

Notes: The table depicts the average share of key financial items that affected firms have to disclose on a country-by-country basis. To account for the fact that some items may have a negative sign, the aggregation is based on absolute values. The first column depicts the averages for firms that are affected by the EU's public CbCR regime and whose parent firm is located in an EU member state ("Affected & EU"). The second column depicts the average values for firms that are affected by public CbCR but whose parent firms are located outside of the EU ("Affected & non-EU"). The third column represents the hypothetical average values for firms that are currently unaffected by public CbCR. Financial variables marked with an asterisk are variables that are required under the public CbCR regime.

In summary, our results indicate that EU domiciled MNEs face potential discrimination both in terms of the personal and material scope of the directive, causing disparities between MNEs domiciled within versus outside of the EU. Specifically, EU domiciled MNEs seem to encounter a more substantial impact from CbCR regulations compared non-EU domiciled MNEs. Our back-of-the-envelope estimates suggest that EU domiciled MNEs are required to disclose approximately 50 percentage points more of their global operations on a CbC basis than their non-EU domiciled counterparts. This translates into a twice-as-high level of disaggregated disclosure. These findings align with the notion that EU MNEs are more likely to face competitive disadvantages in comparison to their non-EU domiciled business partners or competitors.

4.4 Limitations

Our employed approach and data sources for the descriptive analysis are subject to certain limitations. The first limitation pertains to the potentially heterogeneous availability of ownership and financial information across countries in Orbis. BvD relies on diverse sources, including self-disclosed information from firms provided on their websites, official registers or regulatory bodies, and data from associated information providers (Bureau Van Dijk 2023). Nevertheless, variations in laws and regulations regarding ownership information disclosure across countries potentially introduce discrepancies in coverage levels. To overcome this issue, BvD uses additional information sources, such as private correspondence with firms (via e-mail or telephone), company

websites or press news (Bureau Van Dijk 2023). However, we cannot rule out that the coverage of individual countries may be better than others.[19]

A second limitation stems from the heterogeneous availability of ownership and financial information across entity types. Since branches typically do not publish separate financial accounts, we observe a high share of accounts with consolidation code "limited financials" in Orbis for branches as opposed to subsidiaries. These limited financials often encompass only the number of employees and operating revenues, occasionally even representing estimated values. The lack of detailed information for branches is particularly relevant for the identification of "affected & non-EU" firms, biasing the respective count towards zero.

In summary, while Orbis stands as one of the most comprehensive databases for ownership and financial information of both US- and non-US-based MNEs, it is crucial to acknowledge the constraints outlined above. We therefore stress that our estimates are supposed to serve as preliminary indications and remain subject to confirmation once the first public CbC reports become available.

5 Conclusion

The objective of public CbCR in the EU is to provide detailed insights into the economic activities of MNEs, aiming to establish a level playing field in the EU where firms contribute their "fair share" of taxes. To gauge the introduction of additional disparities that potentially undermine the establishment of a level playing field, we examine the public CbCR Directive implementation across member states and the impact of the disclosure obligation on affected firms domiciled within and outside of the EU.

By the time of our analysis, 12 member states had not yet implemented the directive into national law, but draft laws were available in six of them. Our assessment of implemented and drafted laws reveals a concerning level of heterogeneity, potentially causing disparities across member states. We identify four particularly concerning issues, related to the reporting scope, reporting format, and the publication requirements. Firstly, individual member states define a fixed

[19] As an example, among our sample firms, we identify 35,927 branches or foreign companies located in Germany, but only 86 located in France. This might be due to the fact that setting up branches is less attractive in France as compared to Germany. However, a more plausible explanation is, that Orbis has a lower coverage of French branches than of German branches.

non-Euro turnover threshold that triggers the reporting obligation. This creates a disparity in the personal scope of application due to subsequent exchange rate fluctuations. Secondly, some member states decided against the implementation of a safeguard clause, resulting in MNEs disclosing sensitive information earlier than MNEs in member states with a safeguard clause. This disparity may lead to competitive distortions, which fundamentally oppose the directive's goal of creating a level playing field. Thirdly, the informative value of the disclosures and the users' ability to compare reports is hindered by the disparity in admitted data sources both across and within member states. Fourthly, the variety in locations where the reports are to be made accessible provide MNEs across member states with different levels of discretion to make the reports less salient and accessible.

Our empirical descriptive analysis underscores the potential discriminatory impact of the directive on EU MNEs. Concerning the personal scope, the findings indicate that the number of affected European firms is twice as high as that of Asian or American firms. In terms of the material scope, EU domiciled MNEs have to disclose a substantially higher share of their global operations on a disaggregated CbC basis compared to non-EU domiciled MNEs. This discriminatory effect represents a disparity between EU and non-EU MNEs and a further obstacle to the directive's goal of establishing a level playing field.

While our findings offer valuable early insights into the ramifications of the directive, it is important to acknowledge the limitations of our analysis. Since the reporting obligation is not fully implemented within the EU yet, our results are necessarily indicative in nature. Further research is necessary to evaluate how the remaining member states implement the directive and whether firms take advantage of the heterogeneous implementation for regulatory arbitrage.

To address the identified disparities introduced by the directive and its national implementation, we suggest refining the directive's provisions to promote greater consistency and homogeneity across member states. Specifically, we suggest adjusting the personal and material scope of application. This entails removing the additional size criteria for subsidiaries and branches of non-EU domiciled MNEs, as well as eliminating the option to aggregate data from certain jurisdictions in the reports. To reduce the disparities between EU and non-EU domiciled MNEs one should also endorse a global roll-out of the public regime, for example by means of the OECD Inclusive Framework. Furthermore, we suggest to abolish the options from the directive or at least to provide additional guidance to promote a more homogeneous exercise of options. Overall, it is

recommended to take prompt action before the reporting obligation takes effect in most member states to mitigate potential adverse effects and maintain the integrity of corporate reporting standards within the EU.

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Appendix

Table A.1: Survey and Implementation Status Overview

Country	Status	Name of the (draft) law	Imlementation / Draft publication date
Austria	-	-	-
Belgium	Draft law	Wetsontwerp van 24 november 2023 tot wijziging van het Wetboek van vennootschappen en verenigingen wat de openbaarmaking van informatie over de inkomstenbelasting door bepaalde vennootschappen en bijkantoren betreft	24.11.2023
Bulgaria	Draft law	Draft bill for amendment and supplementation of the Accountancy Act from 19 September 2023	19.09.2023
Croatia	Implemented	Accounting Act; 1 January 2024	28.07.2023
Cyprus	-	-	-
Czech Republic	Draft law	Vl.n.z., kt. se mění někt.zák. s konsolidací veřej. rozpočtů - EU	30.06.2023
Denmark	Implemented	Årsregnskabsloven, 1 June 2023	01.06.2023
Estonia	-	-	-
Finland	-	-	-
France	Implemented	Ordonnance n° 2023-483 du 21 juin 2023 relative à la communication, par certaines entreprises et succursales, d'informations relatives à l'impôt sur les bénéfices and Décret n° 2023-493 du 22 juin 2023 pris pour l'application de l'ordonnance n° 2023-483 du 21 juin 2023 relative à la communication, par certaines entreprises et succursales, d'informations relatives à l'impôt sur les bénéfices	21.06.2023
Germany	Implemented	Gesetz zur Umsetzung der Richtlinie (EU) 2021/2101 im Hinblick auf die Offenlegung von Ertragsteuerinformationen durch bestimmte Unternehmen und Zweigniederlassungen sowie zur Änderung des Verbraucherstreitbeilegungsgesetzes und des Pflichtversicherungsgesetzes, 19 June 2023	19.06.2023
Greece	Implemented	Law 5066/2023 /15 November 2023	15.11.2023
Hungary	Implemented	Relevant legislation was included in Act C of 2000 on Accounting, effective as of 1 January 2023	22.11.2022
Ireland	Implemented	Statutory Instrument No. 322 of 2023 - European Union (Disclosure of Income Tax Information by Certain Undertakings and Branches) Regulations 2023	22.06.2023
Italy	-	-	-
Latvia	Implemented	Informācijas par ieņēmumiem un ienākuma nodokļiem atklāšanas likums 11 October 2023	11.10.2023

Lithuania	Implemented	Order No. 1K-233 “Regarding the approval of the description of the procedure for the preparation of the Income Tax Information Report” and Order No. IX-575 “Company Accountability Law of the Republic of Lithuania”	15.06.2023
Luxembourg	Implemented	Loi du 15 août 2023 portant transposition de la directive (UE) 2021/2101 du Parlement européen et du Conseil du 24 novembre 2021 modifiant la directive 2013/34/UE en ce qui concerne la communication, par certaines entreprises et succursales, d’informations relatives à l’impôt sur les revenus des sociétés et portant modification: 1° de la loi modifiée du 10 août 1915 concernant les sociétés commerciales ; 2° de la loi modifiée du 19 décembre 2002 concernant le registre de commerce et des sociétés ainsi que la comptabilité et les comptes annuels des entreprises.	15.08.2023
Malta	-	-	-
Netherlands	Draft law	Wijziging van Boek 2 van het Burgerlijk wetboek tot implementatie van Richtlijn (EU) 2021/2101 van het Europees Parlement en de Raad van 24 november 2021 tot wijziging van Richtlijn 2013/34/EU wat betreft de openbaarmaking van informatie over de winstbelasting door bepaalde ondernemingen en bijkantoren (Implementatiewet Richtlijn openbaarmaking winstbelasting)	06.07.2023
Poland	Draft law	Draft act amending the Accounting Act and the Act on statutory auditors, audit firms and public supervision (Projekt ustawy o zmianie ustawy o rachunkowości oraz ustawy o biegłych rewidentach, firmach audytorskich i nadzorze publicznym), dated 2 August, 2023	02.08.2023
Portugal	Implemented	Decree-Law n. º 73/2023	23.08.2023
Romania	Implemented	The Directive was adopted by the Order 2048/ 2022 and the Order 1730/ 2023, both amending Order 1802/ 2014	07.09.2022
Slovakia	Implemented	Incorporated into § 21 - § 21f of the Act No. 431/2002 Coll. on Accounting and Measure of the Ministry of Finance No. MF/006455/2023-74 / 10/2023 R. o.	14.06.2023
Slovenia	Draft law	Act amending and supplementing the Companies Act (ZGD-1M), 29 September 2023	29.09.2023
Spain	Implemented	Law 28/2022, of 21 December, to promote the ecosystem of emerging companies, Final Provision 6th, that modifies Law 2015/2022, of Accounts Auditing (11ª additional provision)	21.12.2022
Sweden	Implemented	Lag (2023:340) om offentliggörande av visa stora företags inkomstskatterapporter, adopted in June 2023	01.06.2023

Note: This table presents an overview of the implementation status in the EU member states based on the surveys answered by PwC. The provisions for Finland and France were collected from KPMG (2024).

Table A.2: Remaining Parameters

	Reporting Obligation		*Reporting Scope*
Country	**Publication of Auditor Note/Report**	**Penalties**	**Jurisdictions to be disclosed on a disaggregated by-country basis**
Belgium	Together with audited financial statements, which are to be published within 7 months after the balance sheet date.	Penalties up to EUR EUR 10,000 shall be imposed on members of a management body, as well as the persons associated with the management of an establishment in Belgium if the Public CbCR reporting obligations are not complied with. The members of a management body, as well as the persons associated with the management of a company which provides false or misleading CbC information with fraudulent intent may face prison sentence up to one year (possibly in combination with the penalties).	EU jurisdictions and any jurisdiction included on the EU list of non-cooperative jurisdictions for tax purposes and any jurisdictions on the Belgian list of countries with no or low taxes which is broader than the EU list.
Bulgaria	Together with audited financial statements in the Trade register by 30 September of the following year.	A company which provides false or misleading CbC information may face a fine between BGN 10,000 – 20,000. For non-preparation of the public CbC report, the company is facing a fine between BGN 2,000 – 15,000. For non-publication of the report, the fine for the company is between 0.1% - 0.5% from the net income from sales for the reporting period.	EU jurisdictions and any jurisdiction included on the EU list of non-cooperative jurisdictions for tax purposes.
Croatia	Together with audited financial statements, which are to be published within 6 months after the balance sheet date.	If a company does not compile and publish the report in accordance with the relevant provisions of the Accounting Act, it will incur a fine in the amount of EUR 1,320 to EUR 13,270, while a fine of EUR 660 to EUR 2,650 could be imposed on the responsible person at the company.	EU jurisdictions and any jurisdiction included on the EU list of non-cooperative jurisdictions for tax purposes.
Czech Republic	Audit report under the standard conditions.	A fine of up to 3% of assets may be imposed for failure to prepare or publish the report on income tax.	EU jurisdictions and any jurisdiction included on the EU list of non-cooperative jurisdictions for tax purposes.

Denmark	Together with audited financial statements, which are to be published within 12 months after the balance sheet date.	Currently, there are no indications of penalties to be imposed for non-compliance as per the implementation guidance. The implementation is made in the Danish Accounts Act (Årsregnskabsloven). According to the Danish Accounts Act the Danish Business Authority can examine the reports in the same way as annual reports. Penalties may be imposed, however this is rarely done. Further, the reports are covered by the Business Authorities controls, and thus the Authorities can examine the content of the annual reports and order a correction thereof.	EU jurisdictions and any jurisdiction included on the EU list of non-cooperative jurisdictions for tax purposes.
France	Together with audited financial statements.	No information found.	EU jurisdictions, EEA jurisdictions and any jurisdiction included on the EU list of non-cooperative jurisdictions for tax purposes.
Germany	Together with audited financial statements.	A violation with respect to the preparation of the report (report is incorrect or incomplete) and its publication are subject to administrative fines up to EUR 250,000.	EU jurisdictions and any jurisdiction included on the EU list of non-cooperative jurisdictions for tax purposes.
Greece	Together with audited financial statements, which are to be published within 12 months after the balance sheet date.	If the report is not made publicly available, a penalty ranging from EUR 10,000 to EUR 100,000 is imposed on each member of BoD, Audit and Management Committees of parent entity and/or the subsidiaries/branches (to the extent it is reasonable to conclude that the submission of public CbCR falls within the ambit of their duties).	EU jurisdictions and any jurisdiction included on the EU list of non-cooperative jurisdictions for tax purposes.
Hungary	UPE based in Hungary: Audited consolidated financial statement published within 6 months after the last day of the financial year Standalone Undertaking based in Hungary or Subsidiary / Branch of a non-EU headquartered MNE Group: Audited financial statement published within 5 months after the last day of the financial year concerned.	No separate penalty regime has so far been put in place. In line with the Directive, the Hungarian rules (Section 143/H of Act C on Accounting) also define that members of the administrative, management and supervisory bodies of the relevant entities have collective responsibility for ensuring that the public CbCR is compliant. Legal consequences of violating the underlying rules are governed by the Hungarian Civil Code.	EU jurisdictions and any jurisdiction included on the EU list of non-cooperative jurisdictions for tax purposes.

Ireland	Together with audited financial statements.	A person who fails to comply with the reporting obligations may be guilty of an offence and face a fine of up to EUR 5.000 and/or up to 6 months imprisonment.	EU jurisdictions and any jurisdiction included on the EU list of non-cooperative jurisdictions for tax purposes.
Latvia	Together with audited financial statements, which are to be published within 5-7 months after the balance sheet date (depending on the size of the company).	There are no especially dedicated penalties for non-compliance with public CbCR requirements, as such the general fine for non-compliance with submission of tax returns would apply. In the event of non-timely filing or incomplete or incorrect filing of the tax return, the State Revenue Service may issue a warning or penalty in the amount from EUR 70 up to EUR 14 000 applicable to legal persons or penalty up to EUR 700 applicable to a board member with or without deprivation of the board member's right to hold specific position in commercial companies for a period up to 3 years.	EU jurisdictions and any jurisdiction included on the EU list of non-cooperative jurisdictions for tax purposes.
Lithuania	Together with audited financial statements, which are to be published within 12 months after the balance sheet date.	Illegal dissemination of information about the taxpayer incurs a fine from EUR 150 to EUR 600.	EU jurisdictions and any jurisdiction included on the EU list of non-cooperative jurisdictions for tax purposes.
Luxembourg	Together with audited financial statements, which are to be published within 12 months after the balance sheet date.	A penalty of EUR 500 to EUR 25,000 may be imposed if the report is not compliant.	EU jurisdictions and any jurisdiction included on the EU list of non-cooperative jurisdictions for tax purposes.
Netherlands	Together with audited financial statements, which are to be published within 12 months after the balance sheet date.	The failure to timely deposit/ publish the report is an economic offense (equal treatment for non-filing of annual accounts), punishable by imprisonment for up to one year, community service, or a fine of the fourth category (up to EUR 22,500).	EU jurisdictions and any jurisdiction included on the EU list of non-cooperative jurisdictions for tax purposes.

Poland	Together with audited financial statements, which are to be published within 6 months after the balance sheet date.	Criminal liability for financial reporting non-compliance is extended to the public Country-by-Country compliance obligations. Fines up to ~EUR 270,000, imprisonment for a term going between 3 months and 2 years, or both apply for the following: 1. non-preparation of public CbC report, 2. preparation report that is not compliant with domestic regulation, 3. preparation of report containing inauthentic data Fine up to ~EUR 270,000 or non-custodial sentences apply for the following: 4. non-submission of the public C-b-C report to the competent court register, 5. non-submission of the public C-b-C report on website of the entity	EU jurisdictions and any jurisdiction included on the EU list of non-cooperative jurisdictions for tax purposes.
Portugal	Together with audited financial statements, which are to be published within 12 months after the balance sheet date.	The failure to prepare, publish or make the report and statement (when applicable) available on the website, is punishable with a fine of EUR 1,500 - EUR 30,000.	EU jurisdictions and any jurisdiction included on the EU list of non-cooperative jurisdictions for tax purposes.
Romania	Together with audited financial statements, which are to be published within 150 days after the balance sheet date.	Currently, there are no direct penalties imposed by the law for non-compliance.	EU jurisdictions and any jurisdiction included on the EU list of non-cooperative jurisdictions for tax purposes.
Slovakia	Together with audited financial statements, which are to be published within 12 months after the balance sheet date.	A penalty ranging from EUR 100 up to EUR 10,000 is imposed if the report is not filed in time. A company which provides false or misleading CbC information may face a fine from EUR 100 up to EUR 10,000. If the report is not publicly available, a fine from EUR 100 up to EUR 10,000 is due.	EU jurisdictions and any jurisdiction included on the EU list of non-cooperative jurisdictions for tax purposes.
Slovenia	Together with audited financial statement, which is to be published within 8 months after the financial year end to the business registry and within 12 months on the web page.	A penalty of EUR 6,000 - 30,000 is imposed if the report is not filed in time and in accordance with provisions of the corresponding law (ZGD-1M). Additionally, a fine of EUR 300 – 2,500 may be issued to responsible company representative.	EU jurisdictions and any jurisdiction included on the EU list of non-cooperative jurisdictions for tax purposes.

Spain	Together with audited financial statement that covers the year after the period subject to the reporting obligation.	The regulation only establishes that the administrators of the ultimate parent entity and local affiliates, as well as the people with compliance and public reporting roles within the branches that have this obligation, are collectively responsible for the accomplishment of the obligation of publishing the CbC information. Not specific penalties are regulated for the infractions on this reporting obligation. Based on our understanding, the potential penalty regime that may be applied would be the general one established for the preparation and publication of financial statements as regulated in Corporations Law (RDL 1/2010, de Sociedades de Capital, article 283)	EU jurisdictions and any jurisdiction included on the EU list of non-cooperative jurisdictions for tax purposes.
Sweden	Together with audited financial statements, which are to be published within 12 months after the balance sheet date.	No penalties included in the legislation as of now.	EU jurisdictions and any jurisdiction included on the EU list of non-cooperative jurisdictions for tax purposes.

Note: This table presents an information on the national implementation of Directive 2021/2101 in the EU member states based on the surveys answered by PwC. The corresponding provisions for Finland and France were collected from secondary sources (KPMG 2023a, 2024) and a translation of the implementation law and decree (see Appendix Table A.1 for the exact reference).

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