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The Impact of the DAC7 Directive on the Functioning of Platforms and Platform Operators, from the Perspective of the Legal Model of Their Collaboration with Individuals

Abstract: In order to achieve the main objective of sealing the tax system, Council Directive (EU) 2021/514 of 22 March 2021 Amending Directive 2011/16/EU on Administrative Cooperation in the Field of Taxation (DAC7) introduces an obligation to report income obtained by sellers via a digital platform in one of the Member States. However, the implementation of the provisions of DAC7 in the field of reporting also has non-fiscal consequences. The DAC7 Directive interferes in the way sales platforms function, imposing additional obligations on them which are closer to models of cooperation in employer–employee relations than in B2B relations.
Keywords: administrative cooperation, B2B relations, DAC7 Directive, obligations, platform operators

Introduction

Council Directive (EU) 2021/514 of 22 March 2021 Amending Directive 2011/16/EU on Administrative Cooperation in the Field of Taxation (DAC7) is an important instrument for the implementation of EU fiscal policy and corresponding national policies. Its importance stems from the fact that it complements the rules aimed at taxing entities operating by means of cooperation with platforms

through which the consumer can purchase goods or services. This type of activity has become extremely popular in recent years; it is enough to mention the success of platforms such as Uber, Allegro, Bolt, Amazon, AirBnB, etc. An important problem in the exchange of information about traders operating through such platforms is that sometimes they cannot be individually identified, and the relationship with the requested information can only be described on the basis of a common set of characteristics. However, the implementation of the provisions of DAC7 in the field of reporting also has non-fiscal consequences. It turns out that the business model of sales platforms does not necessarily provide for the possibility of fulfilling reporting obligations, which should de facto be fulfilled by individual entrepreneurs as well as by individuals selling their services and goods through these platforms. DAC7 thus interferes in the way sales platforms function, imposing additional obligations on them which are closer to models of cooperation between employer and employees than in business-to-business (B2B) relations.

It is also worth mentioning that platforms are commonly used by micro-entrepreneurs who on some grounds decide that they do not want or cannot have the status of employees but decide to run individual business activity. The reasons for doing this can be a desire to use a more independent form of cooperation with a platform, a wish to undertake business risk in exchange for larger possible incomes and the flexibility offered by cooperation with such platforms, but also the fact that market conditions prevent them from taking advantage of profits stemming from employees.

1. Purpose of the Directive

Broadening the tax base and tightening the tax system are instruments for the implementation of values fundamental to the financial-law system, implemented according to the principles of equality and universality (Brzeziński, 2015, p. 10; Gomułowicz, 2005, p. 481; Gomułowicz & Małecki, 2010, p. 119). Activities in this area are also positively perceived by the public, which criticizes a situation in which certain groups of entrepreneurs enjoy unjustified tax privileges. The sale of goods and services through sales platforms is becoming an increasingly common phenomenon, and the number of entities offering their goods or services is growing as fast as demand for them. However, the flexibility and reduction of administrative obligations, which are two of the main advantages of this method of sales, pose a challenge to the fiscal systems of the countries in which these services and goods are offered. The answer to these challenges is assumed by the EU legislature to be Council Directive (EU) 2021/514 (p. 1), together with the Polish act implementing this Directive (Bill Amending the Act on Exchange of Tax Information with Other Countries and Certain Other Acts), which at the time of writing functions as a draft presented by the Ministry of Finance.

The Directive, in addition to achieving the main objective of sealing the tax system, introduces an obligation to report income obtained by sellers via a digital platform in one of the Member States (DAC7 Directive, Preamble, Recital 13). It also sets a whole range of other objectives that this main objective is intended to pursue, including the extension of the information obligation. This obligation is to be applied both to operators operating across borders and to those cases where the activity is not cross-border (DAC7 Directive, Preamble, Recital 10). It is also intended to cover operators who are not resident nor registered in a Member State, do not have their management in a Member State, or do not have a permanent establishment in a Member State, referred to in the Directive as foreign platform operators operating in the Union (DAC7 Directive, Preamble, Recital 14). The obligation to register foreign platform operators prevents unfair competition by certain market players taking advantage of the lack of access to fiscal information (DAC7 Directive, Preamble, Recital 14).

In general, the obligations of digital platform operators to provide information to Member States' tax authorities relate in particular to information on income from commercial property activities, services provided in person and sales of goods, as well as the rental of means of transport. As already mentioned, the scope of information concerns B2B activities, and thus the obligations arising from the directives do not cover activities carried out by the seller as an 'employee' of the platform operator, although of course in such a situation (DAC7 Directive, Preamble, Recital 18), reporting obligations will arise from other legal titles, for example from the fact that in such a situation the operator is a payer of income tax.

Undoubtedly, an interesting regulatory aspect, which is a kind of challenge for all tax systems and which the Directive tries to deal with, is obtaining information from platform operators outside the EU. The existing instruments in this area are international agreements (bilateral and multilateral) on the exchange of tax information. With regard to these instruments, the Directive, while confirming the obvious fact that such agreements fall outside the competence of the EU and are concluded by Member States exercising their tax sovereignty, suggests the possibility of determining the equivalence of the information instruments contained in these agreements with the instruments introduced by the Directive.

A separate category of objectives adopted by the Directive are those relating to minimizing the possible negative effects of the introduction of the regulations; of course, we are talking primarily about the increase in the administrative burden imposed on platform operators. The Directive indicates that reporting rules should be effective on the one hand and simple on the other (DAC7 Directive, Preamble, Recital 9); the stated aim of the Directive is certainly not to increase the administrative burden on entrepreneurs. Recently, we have seen a whole range of legislative actions taken by EU bodies aimed at reducing administrative burdens, in particular those imposed on micro-, small and medium-sized enterprises. For this reason,

the discussed regulation declares considerable openness to other, equivalent solutions, in particular with regard to platform operators who, due to their non-EU residence, are subject to other, locally appropriate obligations in the field of reporting the income of entities cooperating for fiscal purposes, in particular in situations where, on the basis of bilateral or multilateral agreements, such exchanges are carried out between countries inside and outside the EU's jurisdiction. At this point, it is worth noting that the problem DAC7 is trying to solve is a common problem that occurs in many jurisdictions, and highly developed and developing countries generally use various instruments to solve it.

Such openness is implemented in many ways; one of the most important is the recognition of international standards for the provision of information regulated by DAC7 as equivalent (DAC7 Directive, Preamble, Recital 21). The OECD's 'model rules for reporting platform operators to rapporteurs in the sharing economy and gig economy' (model principles) play a huge role here (DAC7 Directive, Preamble, Recital 16). Another manifestation is the already mentioned openness to bilateral and multilateral solutions within the framework of cooperation between EU Member States and non-EU countries in this area. However, the objectives declared in the Directive regarding the non-imposition of additional bureaucratic burdens on entrepreneurs do not change the basic facts, which clearly indicate that there is an additional obligation imposed on certain categories of entities, that the implementation of this obligation will be subject to control procedures and that the amount of personal data that digital platform operators will have to administer is increasing, as well as a whole range of other additional burdens which result for platform operators.

2. The importance and forms of transnational administrative cooperation in the field of taxation with a focus on information exchange

The European legal and justice areas function not only thanks to the European legislatures or courts; one of the most important elements is the proper cooperation between various administrative entities of the EU and the Member States. It is important that this cooperation has not only a vertical dimension but also a horizontal one; it has both institutional as well as procedural aspects and can be identified in EU law and also in national laws of Member States (Wróbel, 2017, p. 424). It is also one of the Treaty obligations introduced by art. 4(3) of the Treaty of the European Union (Sydow, 2004, p. 72). The introduction and further deepening of the administrative cooperation of the EU Member States results most importantly from the need to facilitate the exchange of information between EU bodies and Member States' authorities; this is vitally important for implementation of the *acquis communautaire* (Brodecki, 2009, p. 200). Administrative cooperation in the EU is conditioned

by multiple factors, including various institutional structures in the Member States, attempts to achieve the consistent application of EU law by national administrations (Biernat, 2000, p. 27) and supporting entrepreneurs by eliminating double administrative obligations, amongst others.

The basic premises connected with the development of administrative cooperation in the field of taxation stem directly from the fiscal risks connected with globalization. The mobility of the workforce, an increasing ability to choose preferential tax jurisdictions and the digitalization of processes of sale for goods and services result in increased possibilities for tax evasion but also the risk of double taxation (Ciobanu, 2017, p. 62). Those motives brought the OECD as well as the EU to the idea of undertaking legislative action providing a fair imposition of taxes upon taxpayers, their incomes and assets, while avoiding tax evasion, double taxation and the protection of the legitimate fiscal interests of states. In order to achieve these goals, Directive 77/799/CEE of 19 December 1977 Concerning Mutual Assistance by the Competent Authorities of the Member States in the Field of Direct Taxation has been adopted by the Council. This instrument was repealed in 2011 by Directive 2011/16/EU of the Council on Administrative Cooperation in the Field of Taxation, better reflecting the current fiscal challenges of the globalization.. This Directive aims at creating an efficient environment for collaboration between EU countries, as well as mitigating the negative fiscal effects of globalization.

The dynamics of the changes in the global economy and its environment (including the outbreak of the COVID-19 epidemic) resulted in a need to implement several changes to the Directive, which took the form of the following amendments:

a) Council Directive 2014/107/EU of 9 December 2014 Amending Directive 2011/16/EU as Regards Mandatory Automatic Exchange of Information in the Field of Taxation (pp. 1–29);
b) Council Directive 2015/2376 of 8 December 2015 Amending Directive 2011/16/EU as Regards Mandatory Automatic Exchange of Information in the Field of Taxation (pp. 1–10);
c) Council Directive 2016/881 of 25 May 2016 Amending Directive 2011/16/EU as Regards Mandatory Automatic Exchange of Information in the Field of Taxation (pp. 8–21);
d) Council Directive 2016/2258 of 6 December 2016 Amending Directive 2011/16/EU as Regards Mandatory Automatic Exchange of Information in the Field of Taxation (pp. 1–3);
e) Council Directive 2018/822 of 25 May 2018 Amending Directive 2011/16/EU as Regards Mandatory Automatic Exchange of Information in the Field of Taxation (pp. 1–13);

f) Council Directive 2020/876 of 24 June 2020 Amending Directive 2011/16/EU as Regards Mandatory Automatic Exchange of Information in the Field of Taxation (pp. 46–48);

g) Council Directive 2021/514 of 22 March 2021 Amending Directive 2011/16/EU as Regards Mandatory Automatic Exchange of Information in the Field of Taxation (pp. 1–26).

3. Obligations arising from the Directive 2021/514 and their impact on the functioning of entrepreneurs

The primary recipients of the obligations arising from Directive 2021/514 are platform operators.[1] According to the bill, these are entities that contract with sellers to make all or part of a platform available to them. An entity includes legal persons, corporations and legal arrangements such as partnerships, trusts and foundations (DAC7 Directive, Annex V, sec. 1(c)(1)). The obligations arising from the Directive apply to platforms from both the European Union and outside it.[2] A platform is any software, including a website or a part thereof or applications, including mobile applications, accessible by users and allowing sellers to be connected to other users for the purpose of carrying out a relevant activity (DAC7 Directive, Annex V, sec. 1(a)(1)),[3] directly or indirectly, to such users. It also includes any arrangement

1 A reporting platform operator means any platform operator, other than an excluded platform operator, who is in any of the following situations: 1) resident for tax purposes in a Member State or, where such a platform operator does not have residence for tax purposes in a Member State, fulfils any of the following conditions: a) it is incorporated under the laws of a Member State; b) it has its place of management (including effective management) in a Member State; c) it has a permanent establishment in a Member State and is not a qualified non-union platform operator; 2) neither resident for tax purposes nor incorporated or managed in a Member State, nor has a permanent establishment in a Member State, but facilitates the carrying out of a relevant activity by reportable sellers or a relevant activity involving the rental of immovable property located in a Member State and is not a qualified non-union platform operator (DAC7 Directive, Annex V, sec. 1(a)(4)).

2 A 'qualified non-union platform operator' means a platform operator for which all relevant activities that it facilitates are also qualified relevant activities and that is resident for tax purposes in a qualified non-union jurisdiction or, where such a platform operator does not have residence for tax purposes in a qualified non-union jurisdiction, it fulfils any of the following conditions: a) it is incorporated under the laws of a qualified non-union jurisdiction; or b) it has its place of management (including effective management) in a qualified non-union jurisdiction (DAC7 Directive, Annex V, sec. 1(a)(4)).

3 The term 'relevant activity' means an activity carried out for a consideration and being any of the following: 1) the rental of immovable property, including both residential and commercial property, as well as any other immovable property and parking spaces; 2) a personal service; 3) the sale of goods; 4) the rental of any mode of transport. A 'relevant activity' does not include an activity carried out by a seller acting as an employee of the platform operator or a related entity of the platform operator (DAC7 Directive, Annex V, sec. 1(a)(8)).

for the collection and payment of a consideration in respect to a relevant activity. At the same time, the Directive clarifies that the term 'platform' does not include software that exclusively allows any of the following, without any further intervention in carrying out a relevant activity:

a) processing of payments in relation to the relevant activity;

b) for users to list or advertise a relevant activity;

c) redirecting or transferring of users to a platform.

The draft bill presented by the Ministry of Finance ensures compliance of the definitions in Polish regulations with the definitions in Directive 2021/514. A very similar approach has been adopted by, among others, Italy (art. 2(1)(a) Recepimento della direttiva (UE) 2021/514), Germany (art. 1(3) Gesetz zur Umsetzung der Richtlinie (EU) 2021/514) and Latvia (art. 2(1) Ministru kabineta 2023). It is worth emphasizing, however, that the definitions proposed in the draft bill are often not coherent with the Polish legal system. This may undoubtedly raise some doubts in the future, as the draft act contains phrases that already have definitions in the provisions of other Polish legal acts (CCI France Pologne, 2023, p. 2; Związek Przedsiębiorców i Pracodawców, 2023, pp. 4–6; Rada Podatkowa Lewiatan, 2023, pp. 2–4). It is therefore not surprising that a number of postulates have appeared regarding the definition of a platform. For example, Grant Thornton (pp. 1–2) proposes a narrow definition of the concept of 'allowing sellers to be connected to other users for the purpose of carrying out a relevant activity', and that the definition itself should only cover digital platforms allowing sellers to have direct contact with users and therefore should not refer to entities that sell, among other things, goods on websites, but which act as intermediary entities.[4] Izba Gospodarki Elektronicznej (2023, p. 3) proposes that the definition of a platform should limit the seller's connection with the user only to direct variant. Additionally, Polskie Stowarzyszenie Wynajmu Krótkoterminowego (2023, p. 3) has proposed clarifying the definition of a platform in such a way that it would 'prevent persons operating in the grey zone from making cash transactions and avoiding taxation'.

The first part of entrepreneurs' obligations is related to the due diligence procedure; their purpose is to identify platform users. The platform operators are obligated to collect and verify the necessary information on all sellers operating on and making use of a specific digital platform.[5] The data that the platform operators must collect includes (DAC7 Directive, Annex V, sec. 2(b)(1–2)):

4 Intermediary entities are, for example, agents or commission agents.

5 The reporting platform operator may rely on a third-party service provider to fulfil the due diligence obligation, but such obligations shall remain the responsibility of the reporting platform operator. This means that using the services of an external service provider does not exclude the operator's liability for improper performance of these obligations (DAC7 Directive, Annex V, sec. 2(h)(1)).

a) for each seller who is an individual and not an excluded seller, their first and last name; their primary address; any Tax Identification Number (TIN) issued to them, including each Member State of issuance, and in the absence of a TIN, the birthplace of the seller; their VAT identification number, where available; their date of birth;

b) for each seller that is an entity and not an excluded seller, their legal name; their primary address; any TIN issued to them, including each Member State of issuance; their VAT identification number, where available; their business registration number; the existence of any permanent establishment through which relevant activities are carried out in the Union, where available, indicating each respective Member State where such a permanent establishment is located.

Additionally, the report indicates, among other things, the Financial Account Identifier, the total consideration paid or credited during each quarter of the reportable period and the number of relevant activities in respect of which it was paid or credited, and any fees, commissions or taxes withheld or charged by the reporting platform operator during each quarter of the reportable period, etc.

In a case where a seller is engaged in relevant activity involving the rental of immovable property, the reporting platform operator shall collect the address of each property listing and, where issued, its respective land registration number or equivalent under the national law of the Member State where it is located (DAC7 Directive, Annex V, sec. 2(e)). Where a reporting platform operator has facilitated more than 2,000 relevant activities by means of the rental of a property listing for the same seller that is an entity, the reporting platform operator shall collect supporting documents, data or information showing that the property listing is owned by the same owner.

A reporting platform operator shall report the required information with respect to the reportable period to the competent authority of the Member State, no later than 31 January of the year following the calendar year in which the seller is identified as a reportable seller.[6] A reporting platform operator shall also provide the information to the reportable seller to whom it relates, no later than 31 January of the year following the calendar year in which the seller is identified as a reportable seller (DAC7 Directive, Annex V, sec. 3(a)(1)). This is another example of the increase in reporting obligations imposed on entrepreneurs in the EU. What is more, the reporting platform operator shall determine whether the information collected is reliable, using all information and documents available to them in its records or in any electronic interface made available by a Member State or the Union free of charge to ascertain the validity of the TIN and/or VAT identification number (DAC7 Directive, An-

6 If a reporting platform operator fulfils any of the conditions in more than one Member State, it shall elect one of those Member States as the one in which it will fulfil the reporting requirements.

nex V, sec. 2(c)). Therefore platform operators are not only obliged to collect data about their users, but also to verify it later. The difficulties in such data verification include incomplete or outdated information on publicly accessible databases or problems in contacting platform users and a possible lack of response. As rightly noted in the media, '[t]he platform vendor's data must be pre-processed and converted into a specific file format (e.g. XML or JSON) before it can be shared with the tax authority. It must be validated using internal or external services' (Eclear.com, n.d.a).

Platform operators will begin to collect a number of pieces of unique information (sensitive personal data) about their users for the purposes of reporting. In this context, it is undoubtedly worth remembering the obligations arising from the General Data Protection Regulation (GDPR). The reporting platform operator is in this respect the controller, within the meaning of the GDPR. Platform operators will be forced to adapt their existing procedures related to the protection of personal data as a result of obtaining new data. Therefore, the reporting obligation also involves obligations in the field of cybersecurity and data protection. In this respect, there is also the problem of the adequate protection of the collected information or its subsequent archiving. Platform operators will therefore have to identify sellers and activities falling within the scope of Directive 2021/514, as well as checking how accurate the collected data is. This will force them to reorganize work among current employees or hire new employees (e.g. data analysts, data scientists or data engineers). There is a need to train employees or introduce technical solutions that will improve the collection of the required information (for example by the introduction of an algorithm enabling automatic data collection). Undoubtedly, the Directive also affects platform operators as employers.

Reporting platform operators are also obliged to keep records of the steps undertaken and any information relied upon for the performance of the due diligence procedures and reporting requirements and adequate measures to obtain those records. Directive 2021/514 indicates that such documentation and records should remain available for a sufficiently long period of time, and in any event for a period of not less than five years but not more than ten years following the end of the reportable period to which they relate (DAC7 Directive, Annex V, sec. 4(b)). In Poland, in accordance with the draft act, a five-year period is planned in this respect. This also forces platform operators to train existing employees or hire new people.

The reporting platform operators are additionally required to register with the competent authority of any Member State when it commences its activity. The Member State of single registration shall allocate an individual identification number to the reporting platform operator and notify it to the competent authorities of all Member States by electronic means (DAC7 Directive, Annex V, sec. 4(f)(4)). This forces platform operators to register again and obtain an additional number. The new obligations also involve the need to change or supplement existing regulations and conditions for the provision of services on digital platforms. This also

forces platform operators to inform their users about the new obligations and the related need to make changes to the regulations. The new obligations force platform operators to reorganize their work and properly prepare their employees.

4. The consequences of imposing reporting obligations in the era of a more flexible labour market and reorientation towards B2B models

Changes in the labour market have been noticeable for several years. Recent years have brought a rapid digital transformation and the related development of remote work. The pandemic undoubtedly played a very important role in this respect; work models can now be fully in an office, hybrid (in which case, as an 'office-first' or a 'remote-first' hybrid) or fully remote (Ernst & Young, 2021, p. 16). The report 'The Reimagined Workplace 2023: Striking a Delicate Balance' states that '56 per cent of workers continue to work a hybrid or fully remote schedule, while 73 per cent of respondents report difficulty enticing workers to return to the office. In addition, 68 per cent of organizations are considering or implementing strategies to increase on-site work' (The Conference Board, 2023, p. 2). Remote work has become so natural and desired by employees that 'getting workers to return to the office was the second most difficult objective respondents reported, exceeded only by finding qualified workers' (The Conference Board, 2023, p. 3). In this respect, it is enough to mention the problems of employers such as Amazon, Apple or Twitter (now X). We are also facing major changes in the labour market due to the development of AI technology, which has significantly accelerated in recent months. It is already expected that some professions will cease to exist, some will change significantly and new professions will be created.

Noticeable changes in the labour market are also the result of the emergence of a new generation of employees. There are more and more people on the labour market who value independence, flexibility and the ability to combine private and professional life. An Ernst & Young report indicated that '[e]mployees in some markets are moving at record levels in anticipation of opportunities for flexibility, choosing to work new schedules and in new locations on a temporary basis to spend time with family, learn new things or explore new places. Key word searches have increased significantly for remote work' (Ernst & Young, 2021, p. 3). In this regard, it is worth remembering the so-called gig worker, i.e. an independent professional, and people working in flexible forms of employment, often in occasional jobs. What is important in the context of this article is that they are often online platform workers; a digital platform has become a place that connects customers with providers of services (Cohen & Muñoz, 2016, p. 77), therefore the self-employed are becoming an important element of the functioning of digital platforms (Todolí-Signes & Tyc,

2016, p. 197). Digital platforms enable the creation of a labour market that in social sciences and the media 'is referred to as [the] "Uber", "on-demand", "sharing", "peer-to-peer", "1099", "digital" or "gig" economy' (Todolí-Signes & Tyc, 2016, p. 197).

Therefore, there is a question as to how far the new obligations of platform operators and the related consequences will affect the users of digital platforms, who, as we have already mentioned, are often self-employed. The new obligations affect digital platforms related to personally provided services, the rental of property, parking spaces, or means of transport, or the sale of goods. As a result, they affect employees or self-employed people operating or offering services on such digital platforms. The reports will include data about users of digital platforms (including self-employed people) and the amount of income they achieve. Transactions and income earned by users of digital platforms will certainly become more transparent to tax authorities (Eclear.com, n.d.b). Additionally, strengthening co-operation between tax authorities across the EU will help fight tax evasion, tax avoidance and tax fraud more effectively. Users and sellers using digital platforms can expect more inspections by tax authorities to check the correctness of tax settlements. At this point, it is worth considering whether this will discourage a large group of platform users (including self-employed people) from using them. Will it discourage these types of entities from undertaking such activity, and to what extent will it be consistent with current trends in the labour market? Is it consistent with the current reorientation towards B2B models? It cannot be denied that some have used the current lack of reporting on the part of platform operators, and the lack of subsequent information to the relevant tax authorities, to their advantage for the purpose of tax optimalization or even tax evasion.

In the case of platform operators, there is another interesting thread. The platform operator, previously acting as an employer and the payer of contributions for its employees, must assume a similar role in relation to users of digital platforms, including the self-employed. This will certainly force them not only to change the regulations of the digital platform and signed contracts but also its organizational structure. At this point, it is worth considering whether this is actually the role that platforms should play and whether it is consistent with the original purpose of creating platforms. The answers to such doubts will certainly be revealed over time by practice and the approach of both platforms and administrative bodies to the challenges posed by the DAC7 Directive.

5. Examples of types of activities where implementing the Directive will be a technical challenge

According to the Preamble of Directive 2021/514, the reporting obligation should also extend to those platform operators that perform commercial activity in the Un-

ion but are neither resident for tax purposes nor incorporated or managed, nor have a permanent establishment in a Member State ('foreign platform operators'). Therefore, the obligations arising from the Directive apply to both EU and non-EU platform operators. We have already established that digital platforms can be connected with different sectors; therefore, the Directive applies to digital platforms offering:

a) the rental of immovable property, including both residential and commercial property, as well as any other immovable property and parking spaces (e.g. AirBnB, Booking, Bookabach);

b) a personal service (e.g. Freelancer, Upwork, Useme, Fiverr, Handy, Wolt, Glovo, Pyszne.pl, FlexJobs);

c) the sale of goods (e.g. Vinted, OLX, Allegro, eBay, Amazon);

d) the rental of any mode of transport (e.g. Lyft, Uber, Sidecar, Bolt, Turo, Click&Boat).

It is noticeable how different these types of activities are, but also how broad the categories are. For example, as 'personal service' we can include text proofreading, copywriting, accounting services, manual labour, etc. Consequently, the obligations arising from the DAC7 Directive will affect a large group of entities. Each of these digital platforms is an example of a potential "digital platform" within the scope of DAC7 reporting obligations, so must therefore:

- determine the approach to new responsibilities;
- hire or retrain employees;
- design and implement the necessary digital solutions;
- design and implement a data management strategy;
- carry out activities related to the due diligence procedure;
- perform user verification;
- prepare and submit a report to local tax authorities (in Poland: Krajowa Administracja Skarbowa – KAS).

Undoubtedly, platforms that have previously collected information about their users, sellers and transactions will have an easier time. Currently, the challenge in their case will be to properly organize this data, complete it and then verify it. Platforms that have not collected this type of data so far, or have only collected it to a very limited extent, will have to face the need to collect it. In their case, there will be a need to build the entire infrastructure related to the collection of user data (from regulations and principles, through GDPR, storage and archiving, to digital security).

It seems that digital platforms related to sales in particular will be problematic (e.g. Vinted, OLX, Allegro, eBay, Amazon). On the one hand, there are additional

exclusions,[7] but on the other, many of the platforms are not addressed to professionals but to ordinary users selling their private property; in the case of selling private items, there are additional exclusions. In the Polish legal system, we are dealing with so-called occasional sales – personal income tax will not apply if the sale covers items that were purchased more than six months ago, and the sale cannot take place in connection with a business activity. This can certainly cause additional confusion.

6. Does the Directive go against trends in modern models of business functioning, such as the shared economy and flexible forms of employment?

Platforms are commonly used in the so-called sharing economy. This innovative sector, which has very dynamic growth, is based on a philosophy of sharing as an alternative to classical private (exclusive) ownership (Paczkowski et al., 2020, pp. 62–63). The 'sharing economy promotes its values by indicating that it can help to use unused resources valuing what is common, shaping trust. [The] shared economy is promoted with slogans defining it as sharing, in a situation where two or more people can enjoy the benefits of owning things, instead of distinguishing, property. Sharing defines something as ours' (Belk, 2007, p. 127). Platforms in the shared economy take on the role of an intermediary, whose task is only to facilitate access to underused and undervalued goods and services (Lobel, 2016); they put themselves in the role of a technology provider (Polkowska, 2019, p. 225) and not, for example, an entity employing employees providing services to consumers. The benefits in terms of reducing labour costs, as well as the responsibility associated with the sale of goods or services, seem obvious in this model and, according to many, are the real reason for the spread of this economic model.

From the perspective of values protected by labour law, the activity of platforms leads to a degradation of the status of the employee, an increase in precarity and a deterioration in the stability of employment (Hauben & Lenaerts, 2020, pp. 4–5). From the perspective of tax law, platforms avoid the status of a payer, leaving the issues of tax settlements to cooperating entities, thus limiting their own costs and legal risks. On the other hand, it is impossible not to notice that the sharing economy model may be a conscious choice for some cooperating with platforms and constitutes an attractive alternative to labour law, which definitely does not keep up with modern life trends (Srnicek, 2017, p. 82), in particular in the case of employees looking for the most flexible forms of employment.

7 An excluded seller is a seller for whom the platform operator facilitated fewer than 30 relevant activities by means of the sale of goods and for which the total amount of consideration paid or credited did not exceed EUR 2,000 during the reporting period.

In the context mentioned above, the DAC7 Directive seems to be a legal instrument which goes against the trends of the sharing economy. It increases obligations, administrative burdens and finally also costs on the side of the platforms, putting them in a specific, quasi-paternalistic position towards the entities cooperating with them. However, one sometimes cannot escape the impression that identifying platforms as responsible for the actions of the entities which cooperate with them can in fact show the real balance of power and the inconvenient truth about the sharing economy – namely, that it is an economy which puts platform operators in the position of 18th-century tycoons, who were unbound in any way to social obligations towards the masses who were working on raising the status of their companies to the position of economic superpowers.

Conclusions

The DAC7 Directive seems to be an effective instrument for fighting tax evasion and introducing basic equality principles to the tax system of EU Member States, as well as broadening the tax base. This is important for various reasons, including increasing revenues required for implementing ambitious EU policies in the social or environmental spheres, eliminating the grey market and satisfying people's sense of justice. It is supposed to efficiently meet the challenges of globalization in the fiscal sphere. In meeting those goals, vertical and horizontal cooperation between fiscal administrations is needed, together with additional obligations which the platform operators have to fulfil in order to remain in conformity with the new laws. These obligations include due diligence procedures in identifying platform users, as well as reporting the taxable income flows connected with using the platform. The additional obligations which are put on the platform are not neutral to the functioning of the platform operators; they are an actual cost which the operator has to bear, either in the form of staff costs or software costs connected with preparing the required reports. Objectively, however, it seems that the proportionality principle between the additional obligations, the measures implementing them and the goal has been maintained. The DAC7 Directive also shows the challenges which changing models of employment pose to the fiscal systems of EU Member States. On the other hand, one cannot escape the impression that to some extent, by subordinating individual service providers or sellers to the platform operators, the DAC7 Directive goes against trends in the modern economy, especially the sharing economy. It may also indicate the need for a deep reform of the fiscal structure, towards indirect taxation, as a simpler way of raising fiscal revenues with a lower risk of tax evasion.

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