15th May 2025

Statement to FISC Subcommittee of the European Parliament on

“The future of EU anti-avoidance tax rules, including simplification”

Dear Chair and Distinguished members of the Subcommittee,

Thank you for the invitation to contribute to this public hearing. I will start my introductory statement with a few words on simplification. After that I will discuss the development needs of EU anti-avoidance rules, focusing on ATAD and the lack of anti-avoidance rules applying to individuals.

Simplification efforts should focus in harmonizing tax rules across EU

Simplification is often understood as a synonym for deregulation. But if we want to have a more simple tax system in the EU, what we really need is further harmonization. We need to reduce fragmentation and embrace coordinated policies, as was also noted in the recently published draft report by Rapporteur Michalis Hadjipantela[1].

The ultimate goal of the simplification efforts should be to unify the corporate income tax bases and CIT rules. This would benefit both MNEs and tax administrations: companies would no longer need to deal with 27 different tax systems and the opportunities for profit shifting and other tax avoidance practices would be significantly reduced.

Admittedly, this is not an easy task, as EU tax decisions require unanimity. Yet recent agreements, such as the minimum tax directive, show it’s not impossible. In the meantime, it's crucial to protect harmonized tax policies already in place. Undermining harmonized tax policies, such as ATAD, would work against the simplification goals.

ATAD needs strengthening, not weakening

Our research from Finland shows that what ATAD really needs is strengthening. While the directive most certainly has helped the member states to combat base erosion and profit shifting, there are still major weaknesses in ATAD.

At Finnwatch we have studied the Finnish interest limitation rules quite extensively. Our case studies show that many of the options given in ATAD – and adopted by many member states, create loopholes and allow multinational companies to shift profits and reduce their tax bills. For example:

[1] Hadjipantela, M. (2025). Draft report on the role of simple tax rules and tax fragmentation in European competitiveness (2024/2118(INI)). European Parliament. https://www.europarl.europa.eu/doceo/document/ECON-PR-770261_EN.pdf

Finnwatch ry, Malminrinne 1 B, 00180 Helsinki
www.finnwatch.org

- The option to grant all companies the right to deduct borrowing costs up to EUR 3 million becomes very problematic when applied at entity-level. As you all know, companies can have tens or even hundreds of subsidiaries, and if every single one of them can deduct interest expenses up to the threshold, the total amount a group can deduct in a member state can be enormous. This creates an incentive for large companies to circumvent the regulation by splitting the group's loans to the numerous subsidiaries. Our findings in Finland confirm this tactic is used in practice[2]. **To close this loophole, the member states should be required to apply the EUR threshold on group-level.**

- The option to exclude loans that were concluded before 17 June 2016 can also be extremely generous to certain companies, as demonstrated in another case study by Finnwatch[3]. And while the exemption is meant to apply only to loans that have not undergone any modifications, it may be relatively easy to hide such modifications from the tax authorities. Thus, this grandfathering provision actually opens up remarkable opportunities for tax avoidance. **While there may have been some basis for *a transitional exemption* for old loans, such exemption is no longer needed and should be removed.**

- Another highly problematic option is the so-called equity escape clause, also known as group ratio rule. This rule allows certain companies to deduct unlimited interest expenses – even if the interest is paid to the group's foreign owners. The company only needs to fulfill a criteria tied to the group's equity/asset ratio, and many groups have the means to ensure the criteria is met. Our case studies show that this loophole was abused for years in Finland until further restrictions were added to the equity escape clause[4]. **The most reliable solution would still be to abolish this clause entirely.**

These examples highlight key flaws in the interest limitation rules. However, the problems in ATAD are not limited to interest limitations. The CFC rules, for instance, have also proved to include severe weaknesses that have been studied by others[5]. A particularly troublesome feature is that the ATAD-based CFC rules can hardly ever be applied to low-taxed foreign companies based in other EU countries, although in EU majority of profit shifting takes place

[2] Finnwatch. (2020). Aggressiivista verosuunnittelua kiinteistöalalla. Tutkimusartikkeli. https://finnwatch.org/fi/tutkimukset/aggressiivista-verosuunnittelua-kiinteistoealalla
[3] Finnwatch. (2020). Sähkönsiirtoyhtiöt välttävät veroja korkojärjestelyillä. Tutkimusartikkeli. https://finnwatch.org/fi/tutkimukset/saehkoensiirtoyhtioet-vaelttaevaet-veroja-korkojaerjestelyillae
[4] Finnwatch. (2025). Loppu korkokikkailulle? – Verolakimuutosten vaikutukset sähkönsiirtoyhtiöiden verovälttelyyn. Tutkimusartikkeli. https://finnwatch.org/fi/tutkimukset/loppu-korkokikkailulle-verolakimuutosten-vaikutukset-saehkoensiirtoyhtioeiden-verovaelttelyyn
[5] See f.ex. Tokola, A. (2023). Changes to the Finnish CFC Regime: What Were the Effects?. Nordic Tax Journal Volume 2023 (2023): Issue 1 (December 2023). https://doi.org/10.2478/ntaxj-2022-0010

from one member state to another[6]. To tackle this issue, the EU could investigate, for instance, whether the Danish CFC rules (that have adopted a slightly differing approach) work better in intra-EU situations and could serve as a model for revised EU-level CFC rules.

The urgent need for an ATAD applying to individuals

In recent years, there have been several EU initiatives, such as ATAD and the minimum tax directive, that aim to tackle corporate tax avoidance and harmful tax competition. At the same time, the EU has done basically nothing to prevent tax avoidance by individuals or to ensure that the wealthiest pay their fair share. This is the case even though we know that the very rich can easily avoid paying taxes by using personal holding companies, for instance. The current tax systems that focus on 'realized income only' simply fail to tax individuals that live on capital income.

Meanwhile, harmful tax competition has intensified in personal taxation. Many EU countries offer generous tax breaks to attract high-net-worth individuals (HNWIs). These preferential tax treatments lower the taxes paid by HNWIs and cause tax income losses to other countries.

These developments call for new solutions that aim to ensure that the very richest pay their fair share. We need a number of tools, including a minimum tax for the wealthiest, an exit tax for individuals as well as strict rules for offering preferential tax treatment. Without these measures, we cannot make our tax systems fair and member states will continue to lose tax income that is urgently needed to run the welfare state and to finance the green transition and European defense.

[6] See f.ex. Tørsløv, T., Wier, L. & Zucman, G. (2022). The Missing Profits of Nations. https://gabriel-zucman.eu/files/TWZ2022Restud.pdf