Council of the European Union
General Secretariat

Interinstitutional files:
2026/0163 (CNS)

Brussels, 31 July 2026

WK 11001/2026 ADD 1

LIMITE

SIMPL
ANTICI
FISC
IA

This is a paper intended for a specific community of recipients. Handling and further distribution are under the sole responsibility of community members.

CONTRIBUTION

From:	General Secretariat of the Council
To:	Antici Group (Simplification)
Subject:	Omnibus XI (Taxation): Comments from delegations

Following the call for comments launched after the meeting of the Antici Group (Simplification) on 13 July 2026, delegations will find enclosed two additional MS comments, as received from EL and ES.

Omnibus XI -Taxation -Directive amending directives on the simplification of the Union framework on direct taxation and supporting growth and competitiveness of the EU

–MS comments –

DDL 24/07/26 COB, MS comments AGS 13/07/ 2026

Table of Contents

GREECE

ELLÁDA

Proposal for a COUNCIL DIRECTIVE amending Directives 2003/49/EC, 2009/133/EC, 2011/96/EU, (EU) 2016/1164, (EU)2017/1852, (EU) 2025/50 as regards the simplification of the Union framework on direct taxation and supporting growth and competitiveness of the EU

Comments made by Greece in relation to Directive (EU)2017/1852 (DRM)

- **Article 5, par. 1:** According to the amendments proposed in relation to par. 1 of article 5, the affected person will have the possibility to amend any deficiencies of the complaint within a 30-day period of receipt of the request, while the first subparagraph indicates the reasons on the basis of which a complaint is rejected by a competent authority. Our understanding is that, after the expiration of the 3- month period provided for in article 3 par. 4, the competent authority gives to the affected person such possibility, after having identified the deficiencies under (a) through (f) and before rejecting the complaint. Please confirm our understanding. In that case, we would seek more clarifications about the reasons why such possibility is provided in cases where the identified rejections fall under (b) and (c), i.e. in cases that there is no question in dispute and the complaint was not submitted within the 3-year period set out in Article 3(1). Last, we would also like to confirm that the process ends with the rejection of the complaint, when the affected person does not remedy the identified deficiencies within the said deadline.

- **Article 16 par. 5:** The proposed paragraph indicates that the suspension ends on the day when the complaint is rejected by all competent authorities or the Advisory Commission or when the affected person decides to withdraw the complaint. Given the proposed amendments in par. 1 of article 10, we would like some explanation about the reason why there is no reference to the Alternative Dispute Resolution Commission. Furthermore, we notice that the last subparagraph of the proposed paragraph refers only to cases where the complaint is accepted by all competent authorities. We would seek clarifications on whether other ongoing proceedings shall be terminated (with immediate effect) after the decision of the Advisory Commission or the Alternative Dispute Resolution Commission, when these Commissions deliver an opinion on the acceptance of a complaint.

***

SPAIN

ESPAÑA

SPAIN. COMMENTS TO TAX OMNIBUS PROPOSAL (OMNIBUS XI).
JULY 2026

Spain fully shares the objectives of this proposal, which are the simplification of tax regulations and the reduction of administrative burdens with the ultimate goal of improving the competitiveness of our companies, all without compromising the fight against tax evasion.

However, this does not preclude us from having serious reservations regarding some specific measures included in the proposal, particularly as regards whether they are the most appropriate means of achieving these objectives or whether, in some cases, they may go beyond simplification and potentially entail a budgetary cost or affect the effectiveness of anti-tax avoidance measures. At this stage, while we are internally assessing the proposal, we are thankful to be invited to pose some questions to the Commission, as well as to give our initial comments:

1. **Council Directive 2003/49/EC of 3 June 2003 on a common system of taxation applicable to interest and royalty payments made between associated companies of different Member States. (IRD):**

   a) Preliminary comments

- We have concerns about the impact this proposal will have on our entire tax system, as well as on double taxation treaties.
- The anti-abuse clause poses a problem due to the potential for non-compliance with treaties with third countries, given that withholding tax may not be provided for by the source country (Spain) or that the source country may not allow the deductibility of the expense.

b) Questions to the Commission

- On the proposal to remove the minimum shareholding requirements, bearing in mind the budgetary impact of the proposal, could the Commission provide **country-by-country assessment** of its expected budgetary impact?
- In respect of the **Permanent Establishment rule,** could the Commission clarify how the rule would apply where the PE is not regarded as the payer of the interest or royalty? That is, in addition to deny the exemption of the withholding tax, if any, would there be any implications regarding the identification or assessment of the beneficial owner by the tax authorities? Could the assessment of whether the expense was incurred for the purposes of the permanent establishment's activity prove difficult in practice and potentially give rise to disputes? Could this create situations where Member States infringe Double Tax Treaties, even among themselves?
- We wonder whether the proposal in Article 1(5) Omnibus (article 5(3) IRD) could give rise to compatibility issues with **Double Tax Treaties** signed by Spain with third countries? This would happen if the DTT does not give the right to withhold interests or royalties to the source country (Spain), or that the source country does not allow the deductibility of the expense.

In the first scenario, could this affect the allocation of taxing rights established under the relevant treaty?
In the second scenario, would the non-discrimination clause not be violated?

In addition, could this provision be regarded as extending beyond the traditional scope of the Directive, which applies to payments of interest and royalties between EU companies?
Finally, could the Commission elaborate on whether these measures would effectively simplify national tax systems?

- Could the Commission clarify the application of the Directive to the European Economic Area and the **Swiss Confederation**, considering what is established in Article 9 of the agreement between Switzerland and the EU on the automatic exchange of information?

2. **Council Directive 2009/133/EC of 19 October 2009 on the common system of taxation applicable to mergers, divisions, partial divisions, transfers of assets and exchanges of shares concerning companies of different Member States and to the transfer of the registered office of an SE or SCE between Member States (codified version). (TMD)**

Preliminary comments

- We welcome the update to the reorganization procedures.
- Regarding the delegated act, we reserve the right to review it, as we doubt its necessity. This comment applies to all instances of such action foreseen in the omnibus resolution.
- Spain has proposed a list of eligible company forms. "companies under Spanish law known as: 'sociedad anónima', 'sociedad comanditaria por acciones', 'sociedad de responsabilidad limitada', public law bodies which operate under private law. Other entities constituted under Spanish law subject to Spanish corporate tax ('Impuesto sobre Sociedades')." We suggest including this **list,** in all three Directives, PSD, IRD and TMD.

3. **Council Directive 2011/96/EU of 30 November 2011 on the common system of taxation applicable in the case of parent companies and subsidiaries of different Member States. (PSD)**

a) Preliminary comments

Spain is concerned about the proposal to eliminate withholding tax on intra-EU dividends under the PSD. This should not be considered a mere simplification of procedural rules. On the contrary, it constitutes a significant, substantial change with direct implications for the tax rights of Member States, affects coherence of their national legislation, and the allocation of taxing powers under double taxation treaties, with a significant budgetary impact.
We also have doubts about the elimination of prior verification requirements and on the extension of the exemption from withholding tax on dividends to pension funds.

b) Questions to the Commission

-
- Have the possible effects of the proposed amendments on the **tax revenues** of Member States been assessed, individually by Member State? Particularly, has the Commission analysed the possible **asymmetrical effects** of the exemption from withholding tax on dividend payments, depending on whether the MS is capital importer or not? Although each Member State can calculate the budgetary impact of the proposal, it is relevant to know the impact on other Member States, since ultimately what this modification implies is a **transfer of public resources** from some Member States to others.
- Would it be appropriate and balanced to tax dividends' distributions in purely **domestic situations,** while exempting portfolio investments from other EU Member States' companies? To note that in Spain participations below 5 percent are generally taxed.

- Has the Commission assessed the risk of this measure potentially being extended to **third countries** through the application of the free movement of capital?
- Has the Commission assessed the **ECJ's** broadening of the scope of the concept of "dividend distribution" over the time?
- In the Commission's view, could the proposed approach create incentives for **individual investors** to interpose companies in order to obtain a lower effective tax burden?
- Could the Commission explain why the option to deny the deduction of expenses related to the distribution, such as **management costs**, requires a minimum participation of 10%? How would this holding requirement operate in practice?
- As in the IRD, Could the Commission' clarify the application of the Directive to the European Economic Area and the **Swiss Confederation**, considering what is established in Article 9 of the agreement between Switzerland and the EU on the automatic exchange of information (AEOI)?

4. **Council Directive (EU) 2017/1852 of October 10, 2017, on tax dispute resolution mechanisms in the European Union. (DRM):**

a) Preliminary comments

We are open to analyzing measures that would improve the procedure. We are studying the proposals, which are interesting in principle. We want to ensure that they lead to improvements in the amicable procedures.

b) Questions to the Commission

- We would appreciate more clarity regarding the proposed modification of **Article 15**, para 5, to suspend any other ongoing proceedings under the MAP or the dispute resolution procedure.
- Could the Commission elaborate on the need for a Council **implementing act** to develop any part of the dispute resolution procedure, as well as on the proposed system of decision taking?
- With regard to the establishment of a time limit for the submission of **objections** to the appointment of independent persons (article 16, para 5) until the competent authorities have reached agreement on the Advisory Commission's decision.- for consistency, would it be appropriate to allow objections throughout the entire period during which independent persons are required to avoid conflicts of interest, namely up to 12 months after the decision?
- Could the Commission provide further details on the **statistical information** that Member States would be required to report?

5. **Council Directive (EU) 2016/1164 of 12 July 2016 laying down rules on the tax treatment of research and development expenditure and against tax avoidance practices that directly affect the functioning of the internal market. (ATAD)**

5.1.Rules on the tax treatment of research and development expenditure:

a) Preliminary comments
We do not yet have a defined position. We were surprised that the ATAD Directive is being used for a tax incentive that supports innovation, especially considering that this measure has not been previously discussed with the Member States.

b) Questions to the Commission

- Could the Commission clarify what is meant by **"minimum harmonisation"** in Recital 23 and by the possibility of applying more beneficial measures?
- How would the provision apply where a Member State provides a **different, but more generous,** measure, for example through grants or tax credits?
- We would appreciate clarification regarding "without prejudice to the application of the **State aid** rules", and whether these R&D expenditures would remain fully subject to State aid scrutiny.
- The rules applicable where the conditions for the R&D expenditure regime are **no longer fulfilled** (new Article 3c, para 2 and 3) could benefit from further clarification.

5.2.Interest limitation rule – Article 4:

a) Preliminary comments

We are studying it, but there are some measures that we view favorably, such as setting the 30% EBITDA limit or mandatory carry-forward. On the other hand, we have concerns about automatic indexation, the mandatory threshold of 3 million euros, and third-party loans.

b) Questions to the Commission

- We wonder whether the **automatic indexation** mechanism may introduce additional complexity, as it requires continuous monitoring.
- We would like to discuss the potential implications of the exclusion of **third-party loans**. Should it be assumed that loans outside the accounting group are inherently low risk? How does the Commission envisage preventing structures that could be used to exclude loans from the calculation through intermediary arrangements?
- We wonder whether increasing the mandatory de minimis threshold to **EUR 3 million** could create risks of tax avoidance.
- Could the COM clarify how the **sequence** for applying the various limits and exclusions should operate, given that the outcome may vary depending on the order applied?
- Finally, could the Commission clarify the intended meaning of the **new Para 8** of Article 7, on Member States not maintaining or introducing, in their national law, any provisions with a subject-matter falling within the scope of paragraphs 5, 6 and 7?

5.3.Controlled foreign company (CFC) rule – Article 8:

a) Preliminary comments

As a general rule, Spain considers that rules against tax abuse should not depend on the size of the taxpayer.

b) Questions to the Commission

- Conceptually, does the fact that a group falls within the scope of **Pillar Two** necessarily mean that each controlled foreign company will effectively be subject to taxation equivalent to the domestic CFC charge?
- Furthermore, we have the same question as regards UPEs located in a jurisdiction with a qualified **side-by-side** regime.

6. **Council Directive (EU) 2025/50 of December 10, 2024, on faster and safer relief of excess withholding taxes. (FASTER)**

Questions to the Commission

- Could the Commission clarify whether the proposed amendments would only apply if the exemption from withholding tax on dividend payments under the **PSD** is ultimately agreed?
- On what basis does the Commission conclude that national relief at source procedures for implementing IRD and PSD are **more burdensome** than FASTER procedures, given that the latter entail specific due diligence obligations?