

European Commission Refers Belgium to ECJ for Incorrect Transposition of CFC provisions of ATAD 1

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On 19 April 2023, the European Commission referred Belgium to the Court of Justice of the European Union (ECJ) over its controlled foreign company (CFC) rules.

Under the CFC rules, the country of the parent company of a multinational may tax profits made by a CFC in another Member State if the tax paid by that CFC is less than half of what would be paid in the Member State of the parent company. However, the parent company must receive a tax credit for all taxes that the CFC has paid abroad.

Belgium does not eliminate double taxation arising from the application of CFC rules and does not allow taxpayers to deduct from their tax liability the tax paid by a CFC in its state of tax residence.

On 2 July 2020, the European Commission sent a letter of formal notice to Belgium (see [European Commission Sends Belgium Letter of Formal Notice on Correct Transposition of ATAD 1 Directive \(2 July 2020\)](#)).

Belgium's reply did not satisfactorily address the concerns raised by the European Commission. Therefore, the European Commission referred the matter to the ECJ.

The full text of the announced press release is available [here](#).