

NEWSFLASH

ECOFIN's Definitive Withdrawal of the ATAD 3 Directive (18 June 2025)

On 18 June 2025, the Economic and Financial Affairs Council (ECOFIN) formally announced the end of all efforts to adopt the ATAD 3 Directive, commonly known as the “Unshell Directive.” This decision marks a significant recalibration of the European Union’s approach to combat tax avoidance via shell entities.

The ATAD 3 proposal, initiated by the European Commission in late 2021, aimed to establish a harmonized EU-wide framework imposing minimum substance requirements on companies to tackle the artificial use of shell entities for tax avoidance and aggressive tax planning. It intended to set clear, uniform criteria for identifying entities lacking genuine economic activity, thereby restricting their ability to access tax benefits within the European Union (such as Double Tax Treaty and Parents-Subsidiary Directive).

Despite the directive’s ambition to strengthen tax transparency and fairness, the initiative encountered substantial obstacles during the legislative process. Consensus could not be reached due to persistent differences between member states, notably on the following points:

- The definition and identification thresholds of shell entities,
- The potential disproportionate administrative and compliance burden on legitimate businesses,
- The risk of duplication and fragmentation in the EU’s tax governance framework, especially considering the existing and evolving measures under DAC6 (Directive on Administrative Cooperation),

Considering these complexities, ECOFIN decided to change its strategy: instead of pursuing ATAD 3, the Council approved the inclusion of substance-related provisions within the framework of the upcoming DAC6 reform. The legislative reform, anticipated for 2026, aims primarily to achieve the objectives of the Unshell proposal by integrating its key substance-related principles within the broader framework of DAC6.

While ATAD 3 is no longer on the EU's legislative agenda, the commitment to combat artificial arrangements through transparency and cooperation remains essential.

In summary: The formal abandonment of ATAD 3 signifies an evolution towards more nuanced and operationally viable instruments within the current EU tax architecture.