General anti-abuse rules (GAARs) feature in tax systems to tackle abusive tax practices that have not yet been dealt with through specifically targeted provisions. GAARs have therefore a function aimed to fill in gaps, which should not affect the applicability of specific anti-abuse rules. Within the Union, the application of GAARs should be limited to arrangements that are ‘wholly artificial’ (non-genuine); otherwise, the taxpayer should have the right to choose the most tax efficient structure for its commercial affairs. It is furthermore important to ensure that the GAARs apply in domestic situations, within the Union and vis-à-vis third countries in a uniform manner, so that their scope and results of application in domestic and cross-border situations do not differ.

(9) General anti-abuse rules (GAARs) feature in tax systems to tackle abusive tax practices that have not yet been dealt with through specifically targeted provisions. GAARs have therefore a function aimed to fill in gaps, which should not affect the applicability of specific anti-abuse rules. Within the Union, the application of GAARs should be applied to arrangements put in place the main purpose or one of the main purposes of which is to obtain a tax advantage that defeats the object or purpose of the otherwise applicable tax provisions without preventing a taxpayer from choosing the most tax efficient structure for its commercial affairs. It is furthermore important to ensure that the GAARs apply in domestic situations, within the Union and vis-à-vis third countries in a uniform manner, so that their scope and results of application in domestic and cross-border situations do not differ.

Or. en
Amendment 97
Luděk Niedermayer
on behalf of the PPE Group

Report
Hugues Bayet
Rules against certain tax avoidance practices

Proposal for a directive
Recital 9 a (new)

Text proposed by the Commission

(9a) Member states should implement detailed provisions that clarify what is meant by non-genuine arrangements and other activities in tax matters subject to sanctions. Sanctions should be set out in a clear way in order not to create legal uncertainty and to provide a strong incentive for full compliance with tax law.

Or. en