Three cases from Austria: Withholding tax refund for foreign investment funds, Interim tax regime for private foundations with non-resident beneficiaries, Anti-base erosion rule for low-taxed intra-group interest payments

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1. Overview

This report is based on three specific Austrian cases on unrelated issues. All three are currently at different stages of court proceedings:

- case C-602/23 *Finanzamt für Großbetriebe*, recently decided by the CJEU in April 2025, concerns whether under domestic law foreign investment funds were entitled to a full refund of Austrian withholding tax (under legislation in force for several years before 2014).[1]
- Currently pending is C-475/25 *Finanzamt für Großbetriebe,* which concerns the so-called interim tax regime for Austrian private foundations with non-res-

1 See below chapter 2.

ident beneficiaries. This case was referred by the Austrian Supreme Administrative Court (*Verwaltungsgerichtshof*, VwGH) to the CJEU in July 2025.[2]

- The third case, concerning the Austrian anti-base erosion rule for low-taxed intra-group interest payments, was decided by the Austrian Federal Fiscal Court (*Bundesfinanzgericht*, BFG) as court of first instance in March 2025 in favour of the taxpayer, the Austrian rule being in violation of EU Fundamental Freedoms. An appeal by the tax authorities is currently pending with the VwGH, and it may be that the EU law issue of this case will be referred to the CJEU. Although technically not (yet) a case "pending" before the CJEU, the international relevance of the underlying issue of anti-base erosion rules within the EU – already before the CJEU in *Lexel AB*[3] and most recently in *X BV*[4] – justifies bringing this Austrian case to the early attention of an international audience[5]

2. Withholding tax refund for foreign investment funds (C-602/23 Finanzamt für Großbetriebe)

2.1. Facts

In April 2025, the CJEU handed down its judgment in this case which gives insight into the highly specialized world of investment fund taxation.[6] The report on this recent case will be kept to the core of the (somewhat complex) issue. A detailed analysis of the case was already given while it was still pending before the CJEU.[7] In comparison to this earlier analysis, the actual ruling of the CJEU is rather short and left commentators disappointed as to the lack of its depth and its inconclusiveness.[8]

The facts of the case are as follows:

A US resident investment fund, regulatorily comparable to a UCITS (i.e. under regulatory supervision, raising capital publicly, risk-spreading investment strategy etc.),[9] applied for a refund of Austrian withholding tax on portfolio dividends for which no tax treaty relief was possible and which could not be credited in the US.[10] Such refund claim was based on a dedicated domestic refund rule of Austrian

2 See below chapter 3.

3 CJEU 20.1.2021, C-484/19 *Lexel AB*.

4 CJEU 4.10.2024, C-585/22 *X BV*.

5 See below chapter 4.

6 CJEU 30.4.2025, C-602/23 *Finanzamt für Großbetriebe.*

7 *Blum* in Kofler/Lang/Pistone/Rust/Schuch/Spies/Staringer/Szudoczky, CJEU – Recent Developments in Direct Taxation 2023 (2024) 100.

8 See *Bendlinger V./Romstorfer*, EuGH zur Quellensteuerrückerstattung an ausländische Investmentfonds, SWI 2025, 456; *Haslinger/Rümmele*, Keine KESt-Erstattung an ausländische Corporate Funds, SWK 2025, 922.

9 Undertakings for Collective Investment in Transferable Securities Directive – UCITS (see the Directive 85/611/EEC as amended).

10 It was not in dispute that these requirements were met.

law,[11] aiming at avoiding final withholding tax cost for non-resident corporate investors in Austrian equities. The Austrian legislator has granted such refund to non-residents with a view to the fact that a withholding tax would always be creditable for Austrian corporate investors against their own annually assessed corporation tax (i.e. a discrimination of non-residents was avoided).[12] While initially reserved for investors from other EU or EEA Member States, because an Austrian court case successfully invoked the EU free movement of capital (Art 63 TFEU),[13] this refund option has later been expanded to include third-country investors.[14]

It is important to note that the Austrian domestic refund rule is designed to exclusively benefit non-resident *corporate* taxpayers (i.e. the refund was not available for individuals or transparent entities). Technically, the US investment fund indeed had legal personality and was formally subject to corporate income tax in the US. However, companies did not have to pay any tax if at least 90% of annual income was distributed to investors, i.e. the unitholders, a factual element that should play an important role later in the case. The issue at hand was that Austrian investment fund taxation principles, which treated investment funds as tax transparent, did apply not only to Austrian investment funds but equally also to foreign investment funds, irrespective of their legal form in the other state.[15] The primary goal of such tax transparent treatment of foreign investment funds was to tax Austrian resident investors on their income from the fund under the same principles as Austrian resident investors are taxed on income from Austrian investment funds. For regulatory reasons, these provisions must always be constructed as transparent vehicles, i.e. no corporate investment funds exist under Austrian regulatory law. In the present case, this fiction of tax transparency for foreign funds was held against the US investment fund. Due to its recharacterization as tax transparent under fund taxation principles, the US investment fund's request for withholding tax refund was denied by Austrian tax authorities.

This has led to a saga of disputes between the US investment fund (and many other foreign investment funds in similar situations) and the Austrian tax administration.[16] In 2023, the Austrian Supreme Administrative Court (*Verwaltungsgerichtshof*, VwGH) made a request to the CJEU for a preliminary ruling under Art 267 TFEU, essentially asking whether it is a restriction of the free movement of capital (Art 63 TFEU) when Austrian legislation precludes a foreign corporation that is regulatorily comparable to a UCITS (and therefore recharacterized

11 Sec 21 para. 1 No. 1a Corporate Income Tax Act.

12 See on a similar German domestic refund rule CJEU 16.6.2022, C-572-20 *ACC Silicones*.

13 VwGH 11.9.2020, Ra 2020/13/0006.

14 Provided that there is an effective exchange of information with the third state. See the legislative change in Abgabenänderungsgesetz 2022 (BGBl I 2022/108).

15 See Sec 188 Investment Fund Act in its version before 2014.

16 For an overview of the history of the dispute see *Bendlinger V./Romstorfer*, SWI 2025, 456; *Haslinger/Rümmele*, SWK 2025, 922.

into a tax transparent vehicle) from the withholding tax refund benefits that Austrian law grants to a resident corporation, while an Austrian UCITS would be equally excluded from such benefits due to its tax transparent treatment.[17]

2.2. Ruling of the CJEU

In its judgement, the CJEU gave the following answer:

> "Article 63 TFEU must be interpreted as meaning that national legislation which has the effect of precluding a refund of tax on income from capital to a non-resident entity which, on the one hand, has the same characteristics as an undertaking for collective investment in transferable securities (UCITS) within the meaning of Directive 2009/65/EC of the European Parliament and of the Council of 13 July 2009 on the coordination of laws, regulations and administrative provisions relating to undertakings for collective investment in transferable securities (UCITS), but, on the other hand, has legal personality and is, in that regard, comparable to a resident legal person, even though, under that national legislation, a resident UCITS is considered to be transparent for tax purposes and cannot operate as a legal person, **does not constitute a restriction on the free movement of capital, provided that the income received by the non-resident entity is attributed to its unitholders and is taxed, in its State of residence, not at the level of the non-resident entity but at the level of its unitholders**."[18]

While the first part of the CJEU's answer replicates the question referred to it (as understood by the Court), the final part shows the thinking of the CJEU. In other words, the present denial of withholding tax refund for a non-resident corporate entity due to its recharacterization into a tax transparent vehicle under investment fund taxation principles is in line with Art 63 TFEU if the non-resident entity is not effectively subject to tax (because its income is attributed to the unitholders and taxed in their hands). Clearly, the CJEU has noticed from the case documents that, according to the findings of the Austrian court of first instance, the US investment fund, though being formally a taxable entity, was relieved from any own obligation to pay tax, due to having distributed its income to the unitholders (who were then taxed with the distribution).[19] Obviously, this tax situation in the US was decisive for the Court. However, the phrase "provided that", as used by the CJEU, indicates that the factual question whether such push-through system of the US fund's income did take place in the present case was sent back to the requesting national court, i.e. the Austrian Supreme Administrative Court, which therefore had to verify the initial findings of the Austrian court of first instance in this respect. In the meantime, the Austrian Supreme Administrative Court has confirmed this factual element as being uncon-

17 See the reformulated question in CJEU 30.4.2025, C-602/23 *Finanzamt für Großbetriebe* No. 43.
18 See the concluding answer given in CJEU 30.4.2025, C-602/23 *Finanzamt für Großbetriebe* (emphasis added).
19 CJEU 30.4.2025, C-602/23 *Finanzamt für Großbetriebe* No.25.

tested.[20] This ruling has essentially concluded that the US investment fund has ultimately lost its case.[21]

2.3. Comments

In Austrian literature, the CJEU's ruling was received critically. The main point of criticism is that it is rather unclear why the tax position of the foreign entity should be relevant for the present issue at all (i.e. that it is relieved from its own tax upon distribution to unitholders). This was never an issue in the many years of dispute before national courts and was also not included in the question referred to the CJEU.[22] Notably, the Austrian domestic refund rule, which the whole case is essentially about, does not include any "subject to tax" requirement. The CJEU has therefore found its own way out of a complicated case, where the main issue was believed to be comparability (i.e. what the correct comparator to the UCITS-like US investment fund should be).[23] However, the CJEU's solution will potentially yield different outcomes for different tax years, depending on whether the foreign entity makes sufficient distributions to its unitholders to be discharged from its own tax in a certain year.[24]

The present case concerned an Austrian investment fund legislation applicable until the end of 2013. From 2014 on, the crucial recharacterization of foreign investment funds follows different rules. The current regime now recharacterizes foreign UCITS and Alternative Investment Funds (AIF),[25] as defined in the relevant European regulatory frameworks, into transparent vehicles for Austrian tax purposes.[26] However, current investment fund taxation rules also recharacterize any other risk-spreading organism under foreign law, independent of its legal form, if effectively being subject to no or only low (less than 10%) taxation.[27] For this latter category, regulatory comparability with UCITS (or AIF) is irrelevant. Rather, what triggers recharacterization into a tax transparent vehicle is the no/low tax status (together with the risk-spreading investment strategy). Such no/low tax stigma may also be easily imposed on incorporated third-country investment funds that are, through whatever technique, discharged from an own tax

20 VwGH 28. 5. 2025, Ro 2022/13/0014. The same result was also confirmed for an Irish corporate investment fund which was personally tax exempt in Ireland, see VwGH 25. 6. 2025, Ra 2021/13/0162.

21 See BFG 27.8.2025, RV/710/1864/2025.

22 *Blum* in Kofler/Lang/Pistone/Rust/Schuch/Spies/Staringer/Szudoczky, CJEU – Recent Developments in Direct Taxation 2023 (2024) 100; *Bendlinger V./Romstorfer*, SWI 2025, 465.

23 See *Blum* in Kofler/Lang/Pistone/Rust/Schuch/Spies/Staringer/Szudoczky, CJEU – Recent Developments in Direct Taxation 2023 (2024) 100.

24 *Haslinger/Rümmele*, SWK 2025, 925.

25 AIF are investment vehicles essentially following UCITS principles, however without the need for regulatory supervision (e.g. because they do not publicly raise money or invest in non-marketable securities).

26 See Sec 188 para. 1 No. 1 and 2 Austrian Investment Fund Act in its version from 2014 on.

27 Sec 188 para. 1 No. 3 Austrian Investment Fund Act in its version from 2014 on.

obligation under foreign laws. Therefore, under the "no own tax justifies exclusion from refund entitlement for foreign entities" logic, as developed by the CJEU in C-602/23, tax authorities can well be expected to apply the result of the present case under the current legislation.

However, the broadened scope of recharacterization, now affecting all foreign risk-spreading no/low tax organisms (whether or not perceived as a "fund"), shows how far reaching the consequences of the CJEU's approach in C-602/23 could be. The mere fact that an entity with risk-spread investments is no/low taxed (for which there can be many reasons) would ultimately exclude such entity from the Austrian withholding tax refund rule. From an equal treatment perspective, it seems difficult to justify the different outcome for such a risk-spreading entity compared to any other no/low taxed entity (e.g. has a single investment), the latter being clearly entitled to the refund in Austria. There were also doubts raised in literature whether this rather blunt punishment of a no/low tax status of a foreign entity, which does not exist for domestic entities, can be in line with Art 63 TFEU.[28] One may therefore wonder whether such case on another no/low taxed entity will be the next chapter of this saga of withholding tax refund cases.

3. Interim tax regime for Austrian private foundations with non-resident beneficiaries (C-475/25 Finanzamt für Großbetriebe)

3.1. Facts

This case was already reported in detail at last year's CJEU conference while still pending before the Austrian Supreme Administrative Court (*Verwaltungsgerichtshof*, VwGH).[29] A brief reminder of the facts of the case will therefore be sufficient.

An Austrian private foundation (*Privatstiftung*) made distributions (*Stiftungszuwendungen*) to its beneficiaries that were resident outside of Austria. Such distributions made to non-residents were subject to income tax under Austrian domestic law, levied by a withholding tax to be deducted by the foundation (in the years in dispute the withholding tax rate was 25%, today it would be 27.5%). However, applicable bilateral tax treaties did typically grant the exclusive right to tax such distributions to the respective beneficiaries' residence States under treaty rules following Art 21 of the OECD Model. Accordingly, such tax treaties would

28 See already *Blum/Pinetz*, Besteuerung ausländischer Investmentfonds im AIFMG, RdW 2014, 490 (494); *Bendlinger V./Romstorfer*, SWI 2025, 465.

29 See *Staringer*, Austria: Revised "interim tax" regime for private foundations with non-resident beneficiaries, in Kofler et al (eds) CJEU – Recent Developments in Direct Taxation 2024 (2025) 101.

have required Austria to a full refund of any tax withheld on the distribution.[30] In the case now referred to the CJEU for preliminary ruling, the beneficiary was resident in Switzerland (i.e. a Non-Member State), so the relevant tax treaty was the Austria-Switzerland treaty, which indeed followed in its relevant version Art 21 OECD MC.[31]

Such refund of withholding tax on the distributions made to treaty protected beneficiaries has a negative effect on the foundation's own tax position under the Austrian "interim tax" ("*Zwischensteuer*") regime, as it is specifically designed for private foundations. In summary, this interim tax concept subjects the foundation to ordinary corporate income tax (at a rate of 25% in the years in dispute, and 27.5% from 2026 on) also with its income from capital investments (e.g. interest or capital gains) and capital gains from real estate. However, if and to the extent the foundation makes distributions to beneficiaries that are subject to income tax in Austria (in the same year or later), the initial corporate income tax is refunded to the foundation.[32] This system of only temporary taxation has been colloquially labeled as "interim tax" (although it is an ordinary corporate income tax).

3.2. Referral to the CJEU

From a fundamental freedoms perspective, the issue of this case can be summarized as follows.[33] While distributions made to Austrian resident beneficiaries (typically subject to income tax in Austria), enable the refund of "interim tax" for the foundation, this is not the case for distributions made to non-Austrian resident beneficiaries, if such non-resident beneficiaries claim their treaty entitlement for relief from Austrian taxation. Such treaty-relieved cross-border distributions do not trigger a refund of the foundation's interim tax and, assuming that all distributions made by the foundation over its lifetime are cross-border and treaty-relieved, the interim tax becomes a definitive burden for the foundation.

In the present case, the beneficiary was resident in a non-Member State (Switzerland). In such case, the relevant (and only) freedom to invoke could be the free movement of capital (Art 63 TFEU). It was already clear from earlier case law of the CJEU that Art 63 TFEU was the applicable freedom on the present issue of refund of a foundation's interim tax.[34] Therefore, the Austrian tax authorities

30 Traditionally, most Austrian tax treaties did apply Art 21 OECD Model-type of rules to distributions of foundations. However, more recent treaties include such distributions into the dividend article (following Art 10 OECD Model), entitling Austria to a limited source taxation right (so that the refund of withholding tax would not be in full, but only in part). This is e.g. the case under the Austria-Germany treaty.

31 This may change going forward under a pending revision of the Austria-Switzerland treaty (see *Petritz*, Die Auswirkung der geplanten DBA- Revision Österreich – Schweiz auf österreichische Privatstiftungen, ZFS 2024, 25).

32 See in detail Sec 24 para. 5 Austrian Corporate Income Tax Act.

33 See already *Staringer* in Kofler et al, CJEU – Recent Developments in Direct Taxation 2024, 102 et seq.

34 See CJEU 17.9.2015, C-589/13 *F.E. Familienprivatstiftung Eisenstadt.*

straightforwardly applied the free movement of capital to the present Swiss beneficiary factual pattern.[35]

The Austrian Supreme Administrative Court's request for preliminary ruling was, therefore, on the effects of this freedom on the Austrian interim tax regime for foundations. The question referred to the CJEU under Art 267 TFEU reads as follows:[36]

> "Does Article 63 TFEU preclude a tax regime of a Member State such as that applicable in the main proceedings, under which a private foundation established in that Member State is liable to corporation tax on certain income (in particular interest income, income from the sale of shareholdings and income from the sale of real estate), but is reimbursed for that corporation tax if it makes donations to beneficiaries and these donations are subject to domestic capital gains tax, with the result that the corporation tax is not refunded insofar as the beneficiaries are not subject to capital gains tax on the donations received (on the basis of a domestic exemption provision or a double taxation agreement)?"

3.3. Comments

The issue of the present case, now pending with the CJEU as C-475/25 *Finanzamt für Großbetriebe,* has been extensively analysed in the past already.[37] In short, the main aspects of this case are the following. Essentially, this case is a follow-up to the CJEU's judgment in *F.E. Familienprivatstiftung Eisenstadt* that was rendered in 2015.[38] In that case, the CJEU had ruled that under the then relevant version of Austrian legislation, the denial of refund of interim tax to Austrian foundations with non-resident beneficiaries was a violation of Art 63 TFEU. The Court's main argument in *F.E. Familienprivatstiftung Eisenstadt* was that Austrian law, in its then version, would have granted a full refund of interim tax to Austrian foundations upon their dissolution, irrespective of where the foundation beneficiaries are resident. Given this willingness of Austrian law to grant the refund at such a final stage, the CJEU did not accept Austria's defence argument that a denial of interim tax refund to the foundation was needed to compensate for the absence of taxation rights on the foundation's distributions under a tax treaty.[39]

35 There is no word in the request for preliminary ruling why the Austrian court did choose the Swiss beneficiary for its referral to the CJEU, while other parallel cases with EU resident beneficiaries were also pending in Austria (which is known from the earlier domestic proceedings). Likely, the third-country case was chosen to signal that, given the global scope of Art 63 TFEU, there is no practical difference in the issue at hand whether beneficiaries are EU-resident or not.

36 VwGH 24.6.2025, EU 2025/0003-1.

37 See already *Staringer* in Kofler et al, CJEU – Recent Developments in Direct Taxation 2024, 101 et seqq.

38 CJEU 17.9.2015, C-589/13 *F.E. Familienprivatstiftung Eisenstadt.*

39 See the case reports *Staringer* in Lang/Pistone/Schuch/Staringer/Storck (eds) ECJ – Recent Developments in Direct Taxation 2014 (2015) 2; *Staringer* in Lang/Pistone/Rust/Schuch/Staringer/Storck (eds) CJEU – Recent Developments in Direct Taxation 2015 (2016) 1.

In response to the outcome of *F.E. Familienprivatstiftung Eisenstadt,* the Austrian legislation was modified in late 2015 (with retroactive effect for all cases from earlier years that were still open on 1 January 2016) in such way that also the ultimate refund of interim tax upon distribution is only possible insofar as Austria is entitled to effectively tax such distributions, i.e. the beneficiaries do not make use of any available tax treaty relief from taxation in Austria. This modification aimed at equal treatment of all foundations (either non-resident or resident beneficiaries), as also distributions made to resident beneficiaries would only entitle the foundation to a refund of its interim tax if and to the extent such distributions were subject to tax in Austria. In other words, a personal tax exemption for such resident beneficiaries would exclude the refund of interim tax. The obvious goal of the revised legislation was to foster the "single tax in Austria" argument that could not be successfully invoked in the *F.E. Familienprivatstiftung Eisenstadt* case. Only if distributions are effectively taxed in Austria, could interim tax be refunded to the foundation. If, however, distributions are shielded from Austrian taxation by a tax treaty, no such refund is possible and the foundation's interim tax becomes final.

The present case, C-475/25 *Finanzamt für Großbetriebe,* is now testing whether this revised legislation did remedy the weaknesses of the earlier legislation that made Austria lose the *F.E. Familienprivatstiftung Eisenstadt* case in 2015. Academic literature has taken the view that this is indeed worth testing before the CJEU.[40] In its referral, the Austrian Supreme Administrative Court follows this view.[41] In fact, the reasoning of the request for preliminary ruling makes it clear that the Austrian court is strongly in favour of the revised Austrian legislation's compliance with EU requirements.[42]

The Austrian court's key argument is the so-called "source country entitlement", which, as claimed by the Austrian court, is traditionally respected by the CJEU in its case law on the impact of EU fundamental freedoms (i.e. outside the scope of the Parent/Subsidiary Directive) on cross-border dividends. Specifically, such concept of source country entitlement was developed for those corporate tax systems in the EU that are designed as imputation systems, i.e. conceptually treating corporate income tax as a mere prepayment of the shareholder's income tax. Under such imputation system, a corporate tax initially paid on corporate profits is to be credited against the shareholder's income tax upon distribution of a dividend. Obviously, such imputation credit will make a system fiscally unsustainable if the shareholder cannot be taxed by the residence Member State of the corporation, for

40 *Staringer*, Zwischensteuerentlastung bei Privatstiftungen und Unionsrecht – alles klar? SWK 2025, 365 (373).

41 See the reasoning in VwGH 24.6.2025, EU 2025/0003-1.

42 For a detailed analysis of the Austrian courts' reasoning see *Staringer*, Die Zwischensteuerentlastung bei Privatstiftungen vor dem EuGH, SWI 2025, 639; see also *Kofler*, Zuwendungen österreichischer Privatstiftungen an ausländische Begünstigte, ZFS 2025, 201; *Schönleitner*, Zuwendungen von Privatstiftungen an ausländische Begünstigte – Auswirkungen auf das Zwischensteuerregime und ihre unionsrechtlichen Grenzen, SWI 2026 in print.

example, if the shareholder is tax resident in another Member State.Then, the residence Member State of the corporation ultimately would not be able to tax corporate profits generated within its territory at all. This was precisely the reason why the CJEU denied the comparability of domestic and cross-border dividend payments under imputation systems in the *ACT Group Litigation* case, thereby avoiding the challenge that a proper discrimination analysis under EU freedoms likely would have posed for such systems.[43] In later cases, the CJEU again relied on this source country entitlement logic.[44] However, there were only a few such follow-up cases, as most Member States had moved away from their traditional imputation systems due to other EU freedoms challenges of such systems.[45]

In fact, the Austrian interim tax regime for foundations may be seen as such imputation system, as it crucially links the foundation's tax position with the ability to effectively levy Austrian income tax on the level of beneficiaries. Undoubtledy, employing the CJEU's case law on cross-border dividends under such systems (starting with *ACT Group Litigation*) does require to see a foundation's distribution as equivalent to corporate dividends. The Austrian court's referral is surprisingly brief in explaining why such equivalence is given, although there would be good arguments in its favour The foundation's distribution to beneficiaries (*Zuwendung*), which was apparently misunderstood by the CJEU in *F.E. Familienprivatstiftung Eisenstadt* as a voluntary gift (*Schenkung*),[46] is in fact much closer to a corporate dividend from both a legal and a tax perspective.[47]

A more fundamental issue is whether the "source country entitlement" doctrine of the CJEU is in its substance convincing. There is significant criticism in literature opposing this doctrine, essentially arguing that it was the free decision of the affected Member State to design its corporate tax system as an imputation system. Such Member State has created its own problem if such system produces fiscally undesired outcomes in the EU Single Market under a consistent and therefore strictly legal approach to the Fundamental Freedoms.[48] Like always, if a Member State has chosen to employ a certain system to tax corporate profits, it has to apply it free of any discrimination also in cross-border situations. It has therefore been stated that the case law on source country entitlement is based more on political than legal grounds.[49]

43 CJEU 12.12.2006, C-374/04 *ACT Group Litigation* No. 59.
44 CJEU 27.6.2008, C-284/06 *Burda*, No. 86; 17.9.2009, C-182/08, *Glaxo Wellcome* No. 70.
45 This was the result of the CJEU's case law that has forced Member States with imputation systems to grant their resident shareholders foreign imputation credits even where the underlying corporation tax was levied by another Member State. See in particular CJEU 7.9.2004, C-319/02 *Manninen*.
46 See CJEU 17.9.2015, C-589/13 *F.E. Familienprivatstiftung Eisenstadt* No. 36 et seq.
47 See in detail *Staringer*, SWI 2025, 642; *Schönleitner*, SWI 2026 in print.
48 *Englisch,* Taxation of Cross-Border Dividends and EC Fundamental Freedoms, Intertax 2010, 197 (214 with further references); *Englisch,* Dividendenbesteuerung (2005) 326 ff.
49 *Schön,* Neutrality and Territoriality – Opposites or Principles of European Tax Law? In Schön/Heber (eds) Fundamental Questions of European Tax Law (2015) 109 (152 with further references).