

Benin

Benin is taking steps to implement the legal basis for the transparency framework and to commence administrative preparations (in accordance with the terms of reference (OECD, 2021^[1]) (ToR) to ensure that it establishes an information gathering process (ToR I.A) and that information on rulings will be identified and exchanged in a timely manner (ToR II.B). Benin receives two recommendations on these points for the calendar year 2022 (year in review).

In the prior year report, as well as in the 2018-2020 peer reviews, Benin had received the same two recommendations. As they have not been addressed, the recommendations remain in place.

Benin can legally issue one type of rulings within the scope of the transparency framework.

In practice, Benin issued no rulings within the scope of the transparency framework.

As no exchanges were required to take place, no peer input was received in respect of the exchanges of information on rulings received from Benin.

Information gathering process (ToR I.A)

142. Benin can legally issue the following one type of rulings within the scope of the transparency framework: permanent establishment rulings.

Past rulings (ToR I.A.1.1, I.A.1.2, I.A.2.1, I.A.2.2)

143. For Benin, past rulings are any tax rulings within scope that are issued either (i) on or after 1 January 2015 but before 1 April 2017; and (ii) on or after 1 January 2012 but before 1 January 2015, provided they were still in effect as at 1 January 2015. Benin issued no past rulings within the scope of the transparency framework. As such, there was no need to identify potential exchange jurisdictions.

Future rulings (ToR I.A.1.1, I.A.1.2, I.A.2.1)

144. For Benin, future rulings are any tax rulings within scope that are issued on or after 1 April 2017.

145. In the prior years' peer review reports, Benin indicated that there were no processes in place for the record keeping of rulings for the purposes of the transparency framework. It was also noted that Benin intended to implement guidelines to ensure the necessary information to meet the requirements of the transparency framework is required in all cases. Therefore, Benin was recommended to finalise its information gathering process for identifying all relevant rulings and potential exchange jurisdictions, as soon as possible.

146. During the year in review, no additional steps to finalise its information gathering process were taken, and therefore the prior years' recommendation remains in place.

Review and supervision (ToR I.A.3)

147. In the prior years' peer review reports, it was determined that Benin did not yet have a review and supervision mechanism under the transparency framework. Therefore, Benin was recommended to put in place a review and supervision mechanism as soon as possible. Benin was in the process of considering the implementation of a review and supervision mechanism for ensuring implementation of the transparency framework. During the year in review, no additional steps were taken, and therefore the prior year recommendation remains.

Conclusion on section A

148. Benin is recommended to finalise its information gathering process for identifying all relevant rulings and all potential exchange jurisdictions, with a review and supervision mechanism, as soon as possible (ToR I.A).

Exchange of information (ToR II.B)

Legal basis for spontaneous exchange of information (ToR II.B.1, II.B.2)

149. Benin is still in the process of putting in place the necessary domestic legal basis to exchange information spontaneously.

150. Benin has international agreements permitting spontaneous exchange of information, including: (i) the *Multilateral Convention on Mutual Administrative Assistance in Tax Matters: Amended by the 2010 Protocol* (OECD/Council of Europe, 2011^[2]) ("the Convention") and (ii) bilateral agreements in force with 9 jurisdictions¹. Benin signed the Convention in 27 November 2019 and deposited its instrument of ratification on 24 January 2023. The Convention entered into force on 1 May 2023 and will have effect for administrative assistance related to taxable periods beginning on or after 1 January 2024.

Completion and exchange of templates (ToR II.B.3, II.B.4, II.B.5, II.B.6, II.B.7)

151. In the prior years' peer review reports, it was determined that Benin was developing a process to complete the templates on relevant rulings, to make them available to the Competent Authority for exchange of information, and to exchange them with relevant jurisdictions.

152. During the year in review, no additional steps were taken, and therefore the prior year recommendation remains.

153. As no exchanges were required to take place for the year in review, no data on the timeliness of exchanges can be reported.

Conclusion on section B

154. Benin is recommended to put in place a domestic legal framework allowing spontaneous exchange of information on rulings and to continue its efforts to complete the templates for all relevant rulings and to ensure that the exchanges of information on rulings occur as soon as possible (ToR II.B).

Statistics (ToR IV.D)

155. As no rulings were issued, no statistics can be reported.

Matters related to intellectual property regimes (ToR I.A.1.3)

156. Benin does not offer an intellectual property regime for which transparency requirements under the Action 5 Report (OECD, 2015^[3]) were imposed.

Summary of recommendations on implementation of the transparency framework

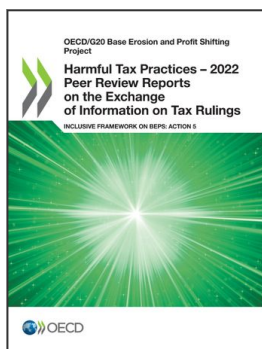
Aspect of implementation of the transparency framework that should be improved	Recommendation for improvement
Benin has not finalised the steps to have in place its necessary information gathering process, with a review and supervision mechanism.	Benin is recommended to finalise its information gathering process for identifying all relevant rulings and all potential exchange jurisdictions, with a review and supervision mechanism, as soon as possible. This recommendation remains unchanged since the 2018, 2019, 2020 and 2021 peer review reports.
Benin has not yet finalised the steps to have effective compulsory spontaneous exchange of information on the tax rulings within the scope of the transparency framework.	Benin is recommended to continue to put in place a domestic legal framework allowing spontaneous exchange of information on rulings and to continue its efforts to complete the templates for all relevant rulings and to ensure that the exchanges of information on rulings occur as soon as possible. This recommendation remains unchanged since the 2018, 2019, 2020 and 2021 peer review reports.

References

- OECD (2021), *BEPS Action 5 on Harmful Tax Practices - Terms of Reference and Methodology for the Conduct of the Peer Reviews of the Action 5 Transparency Framework*, OECD Publishing, Paris, <https://www.oecd.org/tax/beps/beps-action-5-harmful-tax-practices-peer-review-transparency-framework.pdf>. [1]
- OECD (2015), *Countering Harmful Tax Practices More Effectively, Taking into Account Transparency and Substance, Action 5 - 2015 Final Report*, OECD/G20 Base Erosion and Profit Shifting Project, OECD Publishing, Paris, <https://doi.org/10.1787/9789264241190-en>. [3]
- OECD/Council of Europe (2011), *The Multilateral Convention on Mutual Administrative Assistance in Tax Matters: Amended by the 2010 Protocol*, OECD Publishing, Paris, <https://doi.org/10.1787/9789264115606-en>. [2]

Note

¹ Participating jurisdictions to the Convention are available here: www.oecd.org/tax/exchange-of-tax-information/convention-on-mutual-administrative-assistance-in-tax-matters.htm. Benin also has bilateral agreement with France and Norway and multilateral agreements with Burkina Faso, Cabo Verde, Cote d'Ivoire, Gambia, Ghana, Guinea-Bissau, Mali, Niger, Nigeria, Senegal and Togo within WAEMU and ECOWAS.



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