

## Benin

Benin is taking steps to implement the legal basis for the transparency framework and to commence administrative preparations (in line with the terms of reference (OECD, 2021<sup>[3]</sup>) (ToR)) to ensure that it finalises its 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 this point for the calendar year 2020 (year in review).

In the prior year report, as well as in the 2018 peer review, Benin had received the same 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.

## A. The information gathering process (ToR I.A)

136. Benin can legally issue the following 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)**

137. 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.

138. In the prior year's peer review report, it was determined that Benin reviewed its files on rulings and confirmed that no past rulings have been issued. As such, Benin indicated no past rulings within the scope of the transparency framework have been issued and there was no need to identify potential exchange jurisdictions.

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

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

140. In the prior years' peer review reports, Benin indicated that there was no process in place to keep records 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, but there have been no developments during the year in review. Benin is therefore recommended to finalise its information gathering process as soon as possible.

### **Review and supervision (ToR I.A.3)**

141. 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 and was still in the process of considering the implementation of such a mechanism. As there have been no developments on this issue, the recommendation remains in place.

### **Conclusion on section A**

142. Benin is recommended to finalise its information gathering process, with a review and supervision mechanism as soon as possible (ToR I.A).

## B. The exchange of information (ToR II.B)

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

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

144. Benin does not have currently in effect an agreement that would allow for spontaneous exchange of information under the transparency framework. Benin signed the *Multilateral Convention on Mutual Administrative Assistance in Tax Matters: Amended by the 2010 Protocol* (OECD/Council of Europe, 2011<sup>[4]</sup>) ("the Convention") in November 2019, but Benin has not yet ratified the Convention. Benin is therefore encouraged to continue its efforts to ratify the Convention and expand its international exchange of information instruments to be able to exchange information on rulings. It is noted, however, that

jurisdictions are assessed on their compliance with the transparency framework in respect of the exchange of information network in effect for the year of the particular annual review.

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

145. Benin is still 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.

146. As no exchanges were required to take place no data on the timeliness of exchanges can be reported.

### **Conclusion on section B**

147. 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).

## **C. Statistics (ToR IV)**

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

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

149. Benin does not offer an intellectual property regime for which transparency requirements under the Action 5 Report (OECD, 2015<sup>[1]</sup>) were imposed.

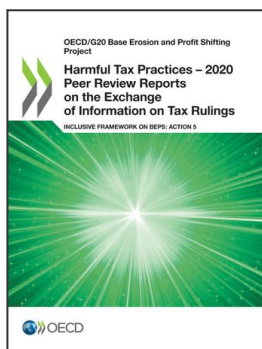
## **Summary of recommendations on implementation of the transparency framework**

<b>Aspect of implementation of the transparency framework that should be improved</b>	<b>Recommendation for improvement</b>
Benin has not yet finalised the steps to have in place its necessary information and gathering process.	Benin is recommended to finalise its information gathering process, with a review and supervision mechanism, as soon as possible. This recommendation remains unchanged since the 2018 and 2019 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 and 2019 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, <http://www.oecd.org/tax/beps/beps-action-5-harmful-tax-practices-peer-review-transparency-framework.pdf>. [3]

- 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://dx.doi.org/10.1787/9789264241190-en>. [1]
- OECD (ed.) (2017b), *Harmful Tax Practices - 2017 Progress Report on Preferential Regimes*, OECD Publishing, Paris, <http://dx.doi.org/10.1787/9789264283954-en>. [2]
- OECD/Council of Europe (2011), *The Multilateral Convention on Mutual Administrative Assistance in Tax Matters: Amended by the 2010 Protocol*, OECD Publishing, Paris, <https://dx.doi.org/10.1787/9789264115606-en>. [4]



**From:**  
**Harmful Tax Practices – 2020 Peer Review Reports  
on the Exchange of Information on Tax Rulings  
Inclusive Framework on BEPS: Action 5**

**Access the complete publication at:**

<https://doi.org/10.1787/f376127b-en>

**Please cite this chapter as:**

OECD (2021), “Benin”, in *Harmful Tax Practices – 2020 Peer Review Reports on the Exchange of Information on Tax Rulings: Inclusive Framework on BEPS: Action 5*, OECD Publishing, Paris.

DOI: <https://doi.org/10.1787/0ce191cb-en>

This work is published under the responsibility of the Secretary-General of the OECD. The opinions expressed and arguments employed herein do not necessarily reflect the official views of OECD member countries.

This document, as well as any data and map included herein, are without prejudice to the status of or sovereignty over any territory, to the delimitation of international frontiers and boundaries and to the name of any territory, city or area. Extracts from publications may be subject to additional disclaimers, which are set out in the complete version of the publication, available at the link provided.

The use of this work, whether digital or print, is governed by the Terms and Conditions to be found at <http://www.oecd.org/termsandconditions>.