

Benin

Benin has met all aspects of the terms of reference (OECD, 2017^[3]) (ToR) for the calendar year 2019 (year in review), except for the information gathering process (ToR I.4) and exchange of information (ToR II.5). Benin receives two recommendations on this point for the year in review.

In the prior year report, 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 has not issued any 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

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

Past rulings (ToR I.4.1.1, I.4.1.2, I.4.2.1, I.4.2.2)

132. 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.

133. In Benin, rulings are issued by the directorate of Legislation and Litigation, within the Tax Administration. This unit is responsible for storing and reviewing such rulings and has reviewed its files, being able to confirm that no past rulings have been issued. Benin indicated no past rulings in scope of the transparency framework have been issued. As such there was no need to identify potential exchange jurisdictions.

Future rulings (ToR I.4.1.1, I.4.1.2, I.4.2.1)

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

135. In the prior year peer review report, 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 and practices to make sure the necessary information to meet the requirements of the transparency framework is required in all cases. Benin was recommended to finalise its information gathering process as soon as possible.

136. During the year in review, as it has not been addressed, the recommendation remains in place.

Review and supervision (ToR I.4.3)

137. In the prior year peer review report, it was determined that Benin did not yet have a review and supervision mechanism under the transparency framework. As Benin is still in the process of considering the implementation of a revision and supervision mechanism for ensuring implementation of the transparency framework for the year in review, the recommendation remains in place.

Conclusion on section A

138. Benin is recommended to finalise its information gathering process, with a review and supervision mechanism as soon as possible (ToR I.4).

B. The exchange of information

Legal basis for spontaneous exchange of information (ToR II.5.1, II.5.2)

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

140. Benin signed the *Multilateral Convention on Mutual Administrative Assistance in Tax Matters: Amended by the 2010 Protocol* (OECD/Council of Europe, 2011^[4]) (“the Convention”) in November 2019. Benin is 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.5.3, II.5.4, II.5.5, II.5.6, II.5.7)

141. 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.

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

Conclusion on section B

143. 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.5).

C. Statistics (ToR IV)

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

D. Matters related to intellectual property regimes (ToR I.4.1.3)

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

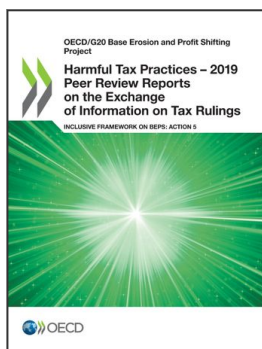
Summary of recommendations on implementation of the transparency framework

Aspect of implementation of the transparency framework that should be improved	Recommendation for improvement
Benin has not 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 prior year peer review report.
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 prior year peer review report.

References

- OECD (2017), *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/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]



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