

Bosnia and Herzegovina

Bosnia and Herzegovina is taking steps to implement the aspects of the terms of reference (OECD, 2021^[3]) for the transparency framework, including the legal basis, and to commence administrative preparations to ensure that the necessary information gathering process for relevant rulings is in place (ToR I.A) and that information on rulings is exchanged in accordance with the form and timelines under the transparency framework (ToR II.B). Bosnia and Herzegovina receives two recommendations on these points for the calendar year 2021 (year in review).

In the prior year's peer review report, Bosnia and Herzegovina had received the same two recommendations. As they have not been addressed, the recommendations remain in place.

Bosnia and Herzegovina can legally issue four types of rulings within the scope of the transparency framework.

In practice, Bosnia and Herzegovina 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 Bosnia and Herzegovina.

Information gathering process (ToR I.A)

158. Bosnia and Herzegovina can legally issue the following four types of rulings within the scope of the transparency framework: (i) cross-border unilateral APAs and any other cross-border unilateral tax rulings (such as an advance tax ruling) covering transfer pricing or the application of transfer pricing principles; (ii) rulings providing for unilateral downward adjustments; (iii) permanent establishment rulings; and (iv) related party conduit rulings. It is noted that the Tax Administration in the Bosnia and Herzegovina entity of Republic of Srpska is the only authority issuing rulings in scope of the FHTP work.

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

159. For Bosnia and Herzegovina, past rulings are any tax rulings issued prior to 1 March 2020. However, there is no obligation for Bosnia and Herzegovina to conduct spontaneous exchange information on past rulings.

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

160. For Bosnia and Herzegovina, future rulings are any tax rulings within scope that are issued on or after 1 March 2020. No rulings were issued by Bosnia and Herzegovina during the year in review.

161. In the prior year's peer review report, it was determined that Bosnia and Herzegovina did not yet have specific mechanisms in place for identifying future rulings and potential exchange jurisdictions within the scope of the transparency framework. Therefore, Bosnia and Herzegovina was recommended to put in place an effective information gathering process to identify all relevant future rulings and all potential exchange jurisdictions, as soon as possible. During the year in review, Bosnia and Herzegovina did not implement such mechanisms. As this process is still under development, the previous year recommendation remains in place.

Review and supervision (ToR I.A.3)

162. In the prior year's peer review report, it was determined that Bosnia and Herzegovina did not yet have a review and supervision mechanism under the transparency framework. Therefore, Bosnia and Herzegovina was recommended to implement a review and supervision mechanism as soon as possible. During the year in review, Bosnia and Herzegovina did not implement such a review and supervision mechanism. As this process is still under development, the previous year recommendation remains in place.

Conclusion on section A

163. Bosnia and Herzegovina does not have specific mechanisms in place for identifying relevant rulings and potential exchange jurisdictions within the scope of the transparency framework as well as for reviewing and supervising that all relevant information is captured adequately. Bosnia and Herzegovina is recommended to put in place its information gathering process for identifying all past and future 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)

164. In the prior year's peer review report, it was determined that Bosnia and Herzegovina did not yet have the necessary domestic legal basis to exchange information spontaneously. Bosnia and Herzegovina can only exchange information on request. Therefore, Bosnia and Herzegovina was recommended to put in place the necessary domestic legal basis allowing spontaneous exchange of information on rulings. During the year in review, Bosnia and Herzegovina did not introduce such a domestic legal framework. As this process is still under development, the previous year recommendation remains in place.

165. Bosnia and Herzegovina 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^[1]) ("the Convention") and (ii) bilateral agreements in force with 38 jurisdictions.¹

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

166. In the prior year's peer review report, it was determined that Bosnia and Herzegovina did not yet have a process to exchange information on rulings in accordance with the form and timelines required by the transparency framework. Therefore, Bosnia and Herzegovina was recommended to develop a process for the completion and exchange of information on relevant rulings going forward. With respect to past rulings, no action was required. During the year in review, Bosnia and Herzegovina did not introduce such a process. As this process is still under development, the previous year recommendation remains in place.

167. During the year in review, no exchanges were required to take place and no data on the timeliness of exchanges is reported.

Conclusion on section B

168. Bosnia and Herzegovina does not yet have the necessary domestic legal basis to exchange information spontaneously and a process for completing the templates in a timely way. Bosnia and Herzegovina is recommended to put in place a domestic legal framework allowing spontaneous exchange of information on rulings and to ensure the timely exchange of information on rulings in the form required by the transparency framework, as soon as possible (ToR II.B).

Statistics (ToR IV.D)

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

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

170. Bosnia and Herzegovina does not offer an intellectual property regime for which transparency requirements under the Action 5 Report (OECD, 2015^[2]) 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
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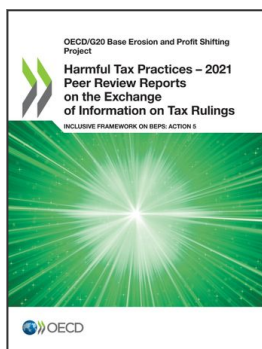
<p>Bosnia and Herzegovina does not have specific mechanisms in place for identifying relevant rulings and potential exchange jurisdictions within the scope of the transparency framework as well as for reviewing and supervising that all relevant information is captured adequately.</p>	<p>Bosnia and Herzegovina is recommended to put in place its information gathering process for identifying all past and future rulings and all potential exchange jurisdictions, with a review and supervision mechanism, as soon as possible. This recommendation remains unchanged since the prior year's peer review report.</p>
<p>Bosnia and Herzegovina does not yet have the necessary domestic legal basis to exchange information spontaneously and a process for completing the templates in a timely way.</p>	<p>Bosnia and Herzegovina is recommended to put in place a domestic legal framework allowing spontaneous exchange of information on rulings and to ensure the timely exchange of information on rulings in the form required by the transparency framework, as soon as possible. This recommendation remains unchanged since the prior year's peer review report.</p>

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://doi.org/10.1787/9789264241190-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://doi.org/10.1787/9789264115606-en>. [1]

Notes

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. Bosnia and Herzegovina also has bilateral agreements with Albania, Algeria, Austria, Azerbaijan, Belgium, Czech Republic, Finland, France, Germany, Greece, Croatia, Iran, Ireland, Italy, Jordan, Kuwait, Qatar, China (People's Republic of), Cyprus, Hungary, Malaysia, Montenegro, Moldova, Netherlands, North Macedonia, Norway, Pakistan, Poland, Romania, Slovak Republic, Slovenia, Serbia, Spain, Sweden, Sri Lanka, Türkiye, United Arab Emirates and United Kingdom.



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