

Burkina Faso

Burkina Faso is taking steps to implement the aspects of the terms of reference (OECD, 2021^[3]) (ToR) for the transparency framework and to commence administrative preparations 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). Burkina Faso receives two recommendations on these points for the year in review.

In the 2017, 2018 and 2019 peer review reports, it was determined that Burkina Faso could not issue advance rulings under the transparency framework due to the lack of an administrative process to make such rulings binding within the tax administration. The administrative process was put in place in 2020.

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

Burkina Faso can legally issue four types of rulings within the scope of the transparency framework.

In practice, it is not known whether Burkina Faso issued rulings within the scope of the transparency framework.

No peer input was received in respect of the exchanges of information on rulings received from Burkina Faso.

Information gathering process (ToR I.A)

209. Burkina Faso can legally issue the following four types of rulings within the scope of the transparency framework: (i) preferential regimes; (ii) rulings providing for unilateral downward adjustments; (iii) permanent establishment rulings; and (iv) related party conduit rulings. Based on the responses to the questionnaire for the year 2021, it is understood that Burkina Faso cannot issue rulings on 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

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

210. For Burkina Faso, past rulings are any tax rulings within scope that are issued either: (i) on or after 1 January 2015 but before 1 April 2017; or (ii) on or after 1 January 2012 but before 1 January 2015, provided they were still in effect as at 1 January 2015.

211. In the prior years' peer review reports, it was determined that Burkina Faso could not issue rulings under the transparency framework before 2020, therefore this section is not evaluated.

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

212. For Burkina Faso, future rulings are any tax rulings within scope that are issued on or after 1 April 2017.

213. Based on the responses to the questionnaire for the year 2021, Burkina Faso indicates that it has issued a decision on preferential regimes, but it is unclear what specific regime the decision was issued on and whether it is a regime allowing preference to income from geographically mobile activities (such as financial and other services) or the provision of intangible, which would therefore fall under Action 5. However, Burkina Faso has not yet put in place a process to report rulings for the purposes of the transparency framework.

Review and supervision (ToR I.A.3)

214. During the year in review, it was determined that Burkina Faso did not yet have a review and supervision mechanism for past rulings under the transparency framework.

Conclusion on section A

215. Burkina Faso 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)

216. Burkina Faso has the necessary domestic legal basis to exchange information spontaneously. Burkina Faso notes that there are no legal or practical impediments that prevent the spontaneous exchange of information on rulings as contemplated in the Action 5 minimum standard.

217. Burkina Faso has international agreements permitting spontaneous exchange of information, including bilateral agreements in force with nine jurisdictions.¹ Burkina Faso signed the *Multilateral Convention on Mutual Administrative Assistance in Tax Matters: Amended by the 2010 Protocol*

(OECD/Council of Europe, 2011^[11]) (“the Convention”), but has not yet ratified the Convention. Burkina Faso is encouraged to continue its efforts to 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)

218. Based on the responses to the questionnaire for the year 2021, Burkina Faso reports having made two exchanges of information relating to rulings under the transparency framework. However, it is not clear whether they were made before 31 December 2021 or later and under which categories of rulings they fall.

219. During the year in review, Burkina Faso has not yet put in place a process to develop templates on relevant rulings, to make them available to the Competent Authority for exchange of information, and to exchange them with relevant jurisdictions.

Conclusion on section B

220. Burkina Faso is recommended to put in place a domestic legal framework allowing spontaneous exchange of information on rulings and 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)

221. As there was no information on rulings exchanged by Burkina Faso for the year in review, no statistics can be reported.

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

222. Burkina Faso does not offer an intellectual property regime for which transparency requirements under the Action 5 Report (OECD, 2015^[21]) 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
Burkina Faso has not taken all measures to put in place the required information gathering process.	Burkina Faso is recommended to finalise its information gathering process and implement a review and supervision mechanism as soon as possible. This recommendation remains unchanged since the prior year's peer review report.
Burkina Faso has not yet put in place the process to develop templates on relevant rulings, to make them available to the Competent Authority for exchange of information, and to exchange them with relevant jurisdictions.	Burkina Faso is recommended to establish a process to develop templates on relevant rulings and ensure that information on these rulings is exchanged in a timely manner and in the format required by the transparency framework. This recommendation remains unchanged since the prior year's peer review report.

Jurisdiction's response and recent developments

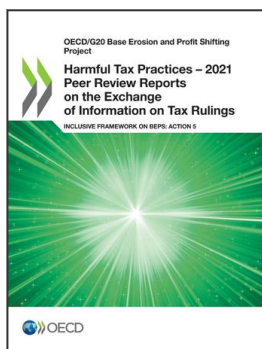
223. Burkina Faso provided an updated peer review questionnaire to the Secretariat beyond the timelines set in the methodology for the conduct of the peer reviews of the Action 5 transparency framework. The updated questionnaire indicated that Burkina Faso could legally issue rulings within the five types of categories in scope of the transparency framework but no rulings have been issued in 2021. Burkina Faso indicated that a mechanism for identifying all future rulings and all potential exchange jurisdictions, with a review and supervision mechanism, is currently being considered. Burkina Faso indicated that the instrument of ratification of the Convention was deposited on 29 August 2022. The Convention will enter into force on 1 December 2022 and into effect on 1 January 2023. Burkina Faso noted that the information exchange process is documented in the information exchange procedures manual, which is currently being approved. Input received and further steps undertaken by Burkina Faso will be taken into account in the 2023 peer review process.

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 Burkina Faso has concluded double taxation treaties with the following countries: Benin, Côte d'Ivoire, France, Guinea-Bissau, Mali, Niger, Senegal, Togo, Tunisia.



From:
**Harmful Tax Practices – 2021 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/10.1787/4034ce42-en>

Please cite this chapter as:

OECD (2023), “Burkina Faso”, in *Harmful Tax Practices – 2021 Peer Review Reports on the Exchange of Information on Tax Rulings: Inclusive Framework on BEPS: Action 5*, OECD Publishing, Paris.

DOI: <https://doi.org/10.1787/30939bff-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>.