

Burkina Faso

Burkina Faso is taking steps to implement the legal basis for the transparency framework and to commence administrative preparations to ensure that information on future rulings will be exchanged in a timely manner, in line with the terms of reference (OECD, 2021^[3]) (ToR). Burkina Faso receives two recommendations covering the information gathering process (ToR I.A) and exchange of information (ToR II.B) for the calendar year 2020 (year in review).

This is Burkina Faso's first review of implementation of the transparency framework. During the prior year peer review, as well as for the 2017 and 2018 peer reviews, it was determined that Burkina Faso could not issue rulings within the scope of the transparency framework.

Burkina Faso can legally issue five types of ruling within the scope of the transparency framework.

In practice, it is not known whether Burkina Faso issued any 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.

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

203. Burkina Faso can legally issue the following five types of rulings within the scope of the transparency framework: (i) preferential regimes, (ii) 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; (iii) rulings providing for unilateral downward adjustments; (iv) permanent establishment rulings; and (v) related party conduit rulings.

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

204. 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; and (ii) on or after 1 January 2012 but before 1 January 2015, provided they were still in effect as at 1 January 2015.

205. As it was determined that Burkina Faso could not issue rulings within the scope of the transparency framework prior to the year in review, Burkina Faso is not required to ensure the implementation of the obligations relating to the transparency framework for past rulings.

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

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

207. No future rulings were identified by Burkina Faso during the year in review. Burkina Faso does not yet have a process in place to ensure the implementation of the obligations relating to the transparency framework.

Review and supervision (ToR I.A.3)

208. Burkina Faso did not yet have a review and supervision mechanism under the transparency framework for the year in review.

Conclusion on section A

209. Burkina Faso is recommended to ensure that it has put in place an effective information gathering process to identify all relevant future rulings and all potential exchange jurisdictions and to implement 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)

210. 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.

211. Burkina Faso has international agreements permitting spontaneous exchange of information, including bilateral agreements in force with 16 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_[4]) (“the Convention”). Burkina Faso 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.B.3, II.B.4, II.B.5, II.B.6, II.B.7)

212. Burkina Faso does not yet have a process to complete the templates on all relevant future rulings, to make them available to the Competent Authority for exchange of information, and to exchange them with relevant jurisdictions.

Conclusion on section B

213. Burkina Faso is recommended to develop a process to complete the templates for all relevant future rulings and to ensure that the exchanges of information on rulings occur in accordance with the form and timelines under the transparency framework going forward (ToR II.B).

C. Statistics (ToR IV)

214. As the Secretariat is not aware whether information on rulings was exchanged by Burkina Faso for the year in review, no statistics can be reported.

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

215. Burkina Faso 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 |
|--|---|
| Burkina Faso has not put in place the necessary information gathering process. | Burkina Faso is recommended to finalise its information gathering process for identifying all future rulings and potential exchange jurisdictions, with a review and supervision mechanism, as soon as possible. |
| Burkina Faso does not have 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. | Burkina Faso is recommended to develop a process to complete the templates on relevant rulings and to ensure that the exchanges of information on rulings occur in accordance with the form and timelines under the transparency framework. |

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]

Notes

¹ Burkina Faso has bilateral agreements with Benin, Cabo Verde, Cote d'Ivoire, France, Gambia, Ghana, Guinea, Guinea-Bissau, Liberia, Mali, Niger, Nigeria, Senegal, Sierra Leone, Togo, Tunisia.



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