

San Marino

San Marino has met all aspects of the terms of reference (OECD, 2021^[1]) (ToR) for the calendar year 2022 (year in review), and no recommendations are made.

San Marino can legally issue two types of rulings within the scope of the transparency framework.

In practice, San Marino issued rulings within the scope of the transparency framework as follows:

| Type of ruling | Number of rulings |
|--|-------------------|
| Past rulings | 2 |
| Future rulings in the period 1 April 2017 – 31 December 2017 | 0 |
| Future rulings in the calendar year 2018 | 0 |
| Future rulings in the calendar year 2019 | 0 |
| Future rulings in the calendar year 2020 | 0 |
| Future rulings in the calendar year 2021 | 0 |
| Future rulings in the year in review | 0 |

As no exchanges were required to take place, no peer input was received in respect of the exchanges of information on rulings received from San Marino.

Information gathering process (ToR I.A)

1042. San Marino can legally issue the following two types of rulings within the scope of the transparency framework: (i) preferential regimes¹ and (ii) permanent establishment rulings.

1043. For San Marino, 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. Future rulings are any tax rulings within scope that are issued on or after 1 April 2017.

1044. In the prior year's peer review report, it was determined that San Marino's undertakings to identify past and future rulings and all potential exchange jurisdictions were sufficient to meet the minimum standard. In addition, it was determined that San Marino's review and supervision mechanism was sufficient to meet the minimum standard. San Marino's implementation remains unchanged, and therefore continues to meet the minimum standard.

1045. San Marino has met all of the ToR for the information gathering process and no recommendations are made.

Exchange of information (ToR II.B)

1046. San Marino has the necessary domestic legal basis to exchange information spontaneously. San Marino 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.

1047. San Marino 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^[2]) ("the Convention"), and (ii) bilateral agreements in force with 25 jurisdictions.²

1048. During the year in review, no exchanges were required to take place and no data on the timeliness of exchanges is reported.

1049. In the prior years' peer review reports, it was determined that San Marino's process for the completion and exchange of templates were sufficient to meet the minimum standard. With respect to past rulings, no further action was required. San Marino's implementation in this regard remains unchanged and therefore continues to meet the minimum standard.

1050. San Marino has the necessary legal basis for spontaneous exchange of information, a process for completing the templates in a timely way and has completed all exchanges. San Marino has met all of the ToR for the exchange of information process and no recommendations are made.

Statistics (ToR IV.D)

1051. As no rulings were issued, no statistics can be reported.

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

1052. In the prior years' peer review reports, it was determined that San Marino's information gathering and exchange of information processes for matters related to intellectual property regimes³ were sufficient to meet the minimum standard. San Marino's implementation in this regard remains unchanged and therefore continues to meet the minimum standard.

1053. It is noted that San Marino's IP regimes are abolished as of 1 October 2022. As the regimes were "not harmful", the FHTP concluded that no specific grandfathering provisions apply. Therefore, as of 1 October 2022, San Marino has no more obligations under the transparency framework regarding its IP regimes.

Summary of recommendations on implementation of the transparency framework

| Aspect of implementation of the transparency framework that should be improved | Recommendation for improvement |
|--|--------------------------------|
| | No recommendations are made. |

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, <https://www.oecd.org/tax/beps/beps-action-5-harmful-tax-practices-peer-review-transparency-framework.pdf>. [1]
- 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>. [3]
- 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>. [2]

Notes

¹ IP regime. In the prior year report, it was noted that San Marino could legally issue rulings with respect to the following preferential regimes: 1) New companies regime (New companies regime provided by art. 73, law no. 166/2013) and 2) IP regime. San Marino has since clarified that rulings can be issued only with respect to the IP regime.

² 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. San Marino also has bilateral agreements with Andorra, Austria, Azerbaijan, Barbados, Belgium, Croatia, Cyprus, Czechia, Georgia, Greece, Hungary, Italy, Liechtenstein, Luxembourg, Malaysia, Malta, Portugal, Qatar, Romania, Saint Kitts and Nevis, Serbia, Seychelles, Singapore, United Arab Emirates and Viet Nam.

³ 1) New companies regime (New companies regime provided by art. 73, law no. 166/2013) and 2) IP regime.



From:

Harmful Tax Practices – 2022 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/10.1787/22bbeacc-en>

Please cite this chapter as:

OECD (2023), “San Marino”, in *Harmful Tax Practices – 2022 Peer Review Reports on the Exchange of Information on Tax Rulings: Inclusive Framework on BEPS: Action 5*, OECD Publishing, Paris.

DOI: <https://doi.org/10.1787/08d494d0-en>

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