

Democratic Republic of Congo¹

The Democratic Republic of the Congo did not provide a completed peer review questionnaire to the Secretariat. It is not known whether the Democratic Republic of the Congo has implemented the transparency framework in line with the terms of reference (OECD, 2021^[3]) (ToR) for the calendar year 2020 (year in review). The Democratic Republic of the Congo receives two recommendations covering the information gathering process (ToR I.A) and exchange of information (ToR II.B) for the year in review.

In the prior year report, as well as in the 2017 and 2018 peer reviews, it was established that the Democratic Republic of the Congo does not issue any type of rulings within the scope of the transparency framework in practice.

For the year in review, it is not known whether the Democratic Republic of the Congo put in place the administrative process or developed the administrative capacity to issue such rulings.

In practice, the Democratic Republic of the Congo did not issue any type of rulings within the scope of the transparency framework in previous years. For the year in review, it is not known whether the Democratic Republic of the Congo issued any such rulings.

No peer input was received in respect of the exchanges of information on rulings received from the Democratic Republic of the Congo.

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

336. In previous years, the Democratic Republic of the Congo indicated that it does not issue any type of rulings within the scope of the transparency framework. Theoretically, there was no impediment for the Democratic Republic of the Congo to issue rulings, but in practice Democratic Republic of the Congo did not issue any rulings.

337. For the year in review, it is not known whether the Democratic Republic of the Congo put in place the administrative process or developed the administrative capacity to issue such rulings.

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

338. For the Democratic Republic of the Congo, 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.

339. In the prior years' peer review reports, it was determined that the Democratic Republic of the Congo did not issue rulings in scope of the transparency framework. As such, no past rulings have been issued and this section is not assessed.

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

340. For the Democratic Republic of the Congo, future rulings are any tax rulings within scope that are issued on or after 1 April 2017.

341. In prior years' peer review reports, it was established that the Democratic Republic of the Congo met all aspects of the ToR that can be met in the absence of rulings being issued.

342. For the year in review, as it is not known whether the Democratic Republic of the Congo can issue rulings in practice, the Democratic Republic of the Congo is recommended to put in place an information gathering process for future rulings as soon as possible.

Review and supervision (ToR I.A.3)

343. In prior years' peer review reports, it was established that the Democratic Republic of the Congo met all aspects of the ToR that can be met in the absence of rulings being issued.

344. For the year in review, as it is not known whether the Democratic Republic of the Congo can issue rulings in practice, the Democratic Republic of the Congo is recommended to put in place a review and supervision mechanism as soon as possible.

Conclusion on section A

345. The Democratic Republic of the Congo is recommended to put in place an information gathering process, with 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)

346. It is not known whether the Democratic Republic of the Congo has the necessary domestic legal basis to exchange information spontaneously. The Democratic Republic of the Congo is not a party to the *Multilateral Convention on Mutual Administrative Assistance in Tax Matters: Amended by the 2010*

Protocol (OECD/Council of Europe, 2011^[4]) (“the Convention”). The Democratic Republic of the Congo 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)

347. In prior years' peer review reports, it was established that the Democratic Republic of the Congo met all aspects of the ToR that can be met in the absence of rulings being issued.

348. For the year in review, as it is not known whether the Democratic Republic of the Congo can issue rulings in practice, the Democratic Republic of the Congo is recommended to put in place a process to complete the templates for all relevant rulings and to ensure that the exchanges of information on rulings occur as soon as possible.

349. As it is not known whether exchanges took place in the year of review, no data on the timeliness of exchanges can be reported.

Conclusion on section B

350. The Democratic Republic of the Congo is recommended to put in place a domestic legal framework allowing spontaneous exchange of information on rulings and to put in place a process 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).

C. Statistics (ToR IV)

351. As the Secretariat is not aware whether information on rulings was exchanged by the Democratic Republic of the Congo for the year in review, no statistics can be reported.

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

352. The Democratic Republic of the Congo 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
It is not known whether the Democratic Republic of the Congo has put in place the necessary information and gathering process.	The Democratic Republic of the Congo is recommended to finalise its information gathering process, with a review and supervision mechanism, as soon as possible.
It is not known whether the Democratic Republic of the Congo has put in place an effective compulsory spontaneous exchange of information on the tax rulings within the scope of the transparency framework.	The Democratic Republic of the Congo 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.

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 Democratic Republic of Congo was not yet in a position to provide written comments on the draft report.



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