

# Romania

Romania has met all aspects of the terms of reference (OECD, 2017<sup>[3]</sup>) (ToR) for the calendar year 2019 (year in review) except for the timely exchange of information on future rulings (ToR II.5.6). Romania receives one recommendation on this point for the year in review.

In the prior year report, as well as in the 2017 peer review, Romania had received the same recommendation. As it has not been addressed, the recommendation remains in place.

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

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

- 16 past rulings;
- For the period 1 April 2017 - 31 December 2017: five future rulings,
- For the calendar year 2018: one future ruling,
- For the year in review: six future rulings.<sup>1</sup>

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

## A. The information gathering process

880. Romania can legally issue the following two 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 and (ii) permanent establishment rulings.

881. For Romania, 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. Future rulings are any tax rulings within scope that are issued on or after 1 April 2017.

882. In the prior years' peer review reports, it was determined that Romania'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 Romania's review and supervision mechanism was sufficient to meet the minimum standard. Romania's implementation remains unchanged, and therefore continues to meet the minimum standard.

883. Romania has met all of the ToR for the information gathering process and no recommendations are made.

## B. The exchange of information

### ***Legal basis for spontaneous exchange of information (ToR II.5.1, II.5.2)***

884. Romania has the necessary domestic legal basis to exchange information spontaneously. Romania 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.

885. Romania has international agreements permitting spontaneous exchange of information, including being a party to the (i) *Multilateral Convention on Mutual Administrative Assistance in Tax Matters: Amended by the 2010 Protocol* (OECD/Council of Europe, 2011<sup>[4]</sup>) ("the Convention"); (ii) the Directive 2011/16/EU with all other European Union Member States and (iii) bilateral agreements in force with 88 jurisdictions.<sup>2</sup>

### ***Completion and exchange of templates (ToR II.5.3, II.5.4, II.5.5, II.5.6, II.5.7)***

886. In the prior years' peer review reports, it was determined that Romania's process for the completion and exchange of templates was sufficient to meet the minimum standard except for the timely exchange of information on rulings (ToR II.5).

887. During the year in review, Romania continued to experience delays in the exchange process for future rulings, and therefore the recommendation remains in place. However, all exchanges for past rulings have been completed during the year in review and no further action is required, and therefore, this part of the recommendation has been removed. Romania has indicated that delays in exchanges were attributable to organisational changes experienced by the tax administration during the year in review, and that these issues have now been resolved. Romania expects to carry out the outstanding exchanges for future rulings by the end of 2020, and this will be assessed in the next year's peer review process.

888. For the year in review, the timeliness of exchanges is as follows:

Past rulings in the scope of the transparency framework	Number of exchanges transmitted by 31 December 2019	Delayed exchanges		
		Number of exchanges not transmitted by 31 December 2019	Reasons for the delays	Any other comments
	19	N/A	N/A	N/A
Future rulings in the scope of the transparency framework	Number of exchanges transmitted within three months of the information becoming available to the competent authority or immediately after legal impediments have been lifted	Delayed exchanges		
		Number of exchanges transmitted later than three months of the information on rulings becoming available to the competent authority	Reasons for the delays	Any other comments
	2	6	Romania experienced delays in exchanges due to a reorganisation of the tax administration and the impact on human resources.	A further four exchanges are outstanding and to be transmitted in 2020.
<b>Total</b>	21	6		

Follow up requests received for exchange of the ruling	Number	Average time to provide response	Number of requests not answered
	0	N/A	N/A

### Conclusion on section B

889. Romania has met all of the ToR for the exchange of information process except for the timely exchange of information on rulings. Romania is recommended to ensure that all information on future rulings is exchanged as soon as possible (ToR II.5.6).

## C. Statistics (ToR IV)

890. The statistics for the year in review are as follows:

Category of ruling	Number of exchanges	Jurisdictions exchanged with
Cross-border unilateral advance pricing agreements (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	24	Belgium, Bulgaria, Germany, Italy, Korea, Luxembourg, Malaysia, Netherlands, Poland, Sweden, Switzerland, United Kingdom,
Permanent establishment rulings	3	<i>De minimis rule applies</i>
<b>Total</b>	27	

## D. Matters related to intellectual property regimes (ToR I.4.1.3)

891. Romania does not offer an intellectual property regime for which transparency requirements under the Action 5 Report (OECD, 2015<sup>[1]</sup>) 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
Although Romania has now completed the outstanding exchanges on past ruling and future rulings issued in 2017 and 2018, Romania experienced delays in the exchange of future rulings issued in 2019.	Romania is recommended to ensure that all information on future rulings is exchanged as soon as possible. Romania also received a recommendation on timely exchange of information on rulings in the 2017 and 2018 peer review reports.

## References

- OECD (2017), *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/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

<sup>1</sup> The number of past rulings and future rulings have been updated since the previous year peer review report. This is due to discrepancies found by Romania when reconciling the number of rulings issued, which occurred due to human error. The number of rulings presented in the report have now been corrected.

<sup>2</sup> Parties to the Convention are available here: [www.oecd.org/tax/exchange-of-tax-information/convention-on-mutual-administrative-assistance-in-tax-matters.htm](http://www.oecd.org/tax/exchange-of-tax-information/convention-on-mutual-administrative-assistance-in-tax-matters.htm). Romania also has bilateral agreements with Albania, Algeria, Armenia, Australia, Austria, Azerbaijan, Bangladesh, Belarus, Belgium, Bosnia and Herzegovina, Bulgaria, Canada, China (People's Republic of), Croatia, Cyprus, Czech Republic, Democratic People's Republic of Korea, Denmark, Ecuador, Egypt, Estonia, Ethiopia, Finland, France, Georgia, Germany, Greece, Hong Kong (China), Hungary, Iceland, India, Indonesia, Iran, Ireland, Israel, Italy, Japan, Jordan, Kazakhstan, Korea, Kuwait, Latvia, Lebanon, Lithuania, Luxembourg, Malaysia, Malta, Mexico, Moldova, Montenegro, Morocco, Namibia, Netherlands, Nigeria, North Macedonia, Norway, Pakistan, Philippines, Poland, Portugal, Qatar, Russia, San Marino, Saudi Arabia, Serbia, Montenegro, Singapore, Slovenia, Slovak Republic, South Africa, Spain, Sri Lanka, Sudan, Sweden, Switzerland, Syrian Arab Republic, Tajikistan, Thailand, Tunisia, Turkey, Turkmenistan, Ukraine, United Arab Emirates, United Kingdom, United States, Uruguay, Uzbekistan, Viet Nam and Zambia.



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