

Albania

Albania has met all aspects of the terms of reference (OECD, 2021^[3]) (ToR) for the calendar year 2020 (year in review), except for having the necessary information gathering process in place (ToR I.A), and having a domestic legal basis for spontaneous exchange of information and exchanging information on the tax rulings in accordance with the form and timelines under the transparency framework (ToR II.B). Albania receives two recommendations on these points for the year in review.

This is Albania's first review of implementation of the transparency framework.

Albania can legally issue five types of rulings within the scope of the transparency framework.

In practice, Albania issued no rulings within the scope of the transparency framework.

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

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

1. Albania can legally issue the following two types of rulings within the scope of the transparency framework: (i) preferential regimes;¹ and (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. Rulings in scope of the FHTP work are issued by the General Directorate of Taxation (GDT).

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

2. For Albania, past rulings are any tax rulings issued prior to 1 March 2020. However, there is no obligation for Albania to conduct spontaneous exchange information on past rulings.

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

3. For Albania, future rulings are any tax rulings within scope that are issued on or after 1 March 2020.

4. No rulings were issued by Albania during the future rulings period in the year in review. Albania indicated that rulings are issued based on legal provisions and will be immediately identified by the GDT. Albania also indicates that all relevant information in relation to APAs, including information on relevant exchange jurisdictions, are available to the GDT. In particular, for APAs, Albania confirms that based on Instruction no. 9 of 2015 on APAs, taxpayers are required to provide information on related parties, as well immediate and ultimate parent companies at the time the request for a ruling is submitted to the tax administration as well as additional information at the request of the tax administration. Regarding rulings on preferential regimes, there are no processes yet in place to ensure the identification of all relevant exchange jurisdictions and thus to ensure the implementation of the obligations relating to the transparency framework.

Review and supervision (ToR I.A.3)

5. Albania does not yet have a review and supervision mechanism under the transparency framework for the year in review.

Conclusion on section A

6. Albania is recommended to put in place an effective information gathering process to identify all potential exchange jurisdictions for future rulings on preferential regimes 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)

7. Albania has the necessary domestic legal basis to exchange information spontaneously. In this regard, Albania confirms Article 61/1 of the law on tax procedures allows spontaneous exchange of information on the implementation of international agreements. Albania 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.

8. Albania has international agreements permitting spontaneous exchange of information, including being a party to (i) the *Multilateral Convention on Mutual Administrative Assistance in Tax Matters: Amended by the 2010 Protocol* (OECD/Council of Europe, 2011^[4]) (“the Convention”) and (ii) bilateral agreements in force with 42 jurisdictions.²

Completion and exchange of templates (ToR II.B.3, II.B.4, II.B.5, II.B.6, II.B.7)

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

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

Conclusion on section B

11. Albania is recommended to develop a process to complete the templates for all relevant 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)

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

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

13. Albania 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
Albania does not yet have the necessary information gathering process in place.	Albania is recommended to put in place an effective information gathering process to identify all potential exchange jurisdictions for future rulings on preferential regimes and to implement a review and supervision mechanism, as soon as possible.
Albania does not yet 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.	Albania is recommended to develop a process to complete the templates for all relevant rulings and to ensure that the exchanges of information on rulings occur in accordance with the form and timelines under the transparency framework.

Jurisdiction’s response and recent developments

14. Albania notes that 2020 was the first year of implementation of the transparency framework for their tax administration. Albania is currently in the process of taking appropriate steps to implement the transparency and action the recommendations of this report.

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 Industry Incentive 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. Albania also has bilateral agreements with Austria, Belgium, Bosnia and Herzegovina, Bulgaria, China (People's Republic of), Croatia, Czech Republic, Egypt, Estonia, France, Germany, Greece, Hungary, Iceland, India, Ireland, Italy, Korea, Kosovo, Kuwait, Latvia, Malaysia, Malta, Moldova, Montenegro, Netherlands, North Macedonia, Norway, Poland, Qatar, Romania, Russia, Saudi Arabia, Serbia, Singapore, Slovenia, Spain, Sweden, Switzerland, Turkey, United Arab Emirates, United Kingdom.



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