

## Romania

Romania has met all aspects of the terms of reference (OECD, 2017<sup>[3]</sup>) (ToR) for the calendar year 2018 (year in review) except for the timely exchange of information on past and future rulings (ToR II.5.6). Romania receives one recommendation on this point for the year in review.

In the prior year review, Romania received two recommendations. One recommendation has been addressed and is removed. The other recommendation has not been addressed and remains in place.

Romania can legally issue two types of ruling within the scope of the transparency framework. In practice, Romania issued rulings within the scope of the transparency framework as follows:

- 12 past rulings;
- For the period 1 April 2016 - 31 December 2016: no future rulings;
- For the calendar year 2017: five future rulings, and

For the year in review: seven future rulings.

As no exchanges took place, no peer input was received in respect of the exchanges of information on rulings received from Romania.

## Introduction

This peer review covers Romania's implementation of the BEPS Action 5 transparency framework for the year 2018. The report has four parts, each relating to a key part of the ToR. Each part is discussed in turn. A summary of recommendations is included at the end of this report.

## A. The information gathering process

Romania can legally issue the following two types of ruling within the scope of the transparency framework: (i) cross-border unilateral advance pricing arrangements (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.

### ***Past rulings (ToR I.4.1.1, I.4.1.2, I.4.2.1, I.4.2.2)***

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.

In the prior year peer review report, it was determined that Romania's undertakings to identify past rulings and all potential exchange jurisdictions were sufficient to meet the minimum standard. Romania's implementation in this regard remains unchanged, and therefore continues to meet the minimum standard.

### ***Future rulings (ToR I.4.1.1, I.4.1.2, I.4.2.1)***

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

In the prior year peer review reports, it was determined that Romania's undertakings to identify future rulings and all potential exchange jurisdictions have met all the ToR. Romania's implementation in this regard remains unchanged, and therefore continues to meet the minimum standard.

### ***Review and supervision (ToR I.4.3)***

Romania did not yet have a review and supervision mechanism for past or future rulings under the transparency framework for the year in review. Therefore, Romania was recommended to implement a review and supervision mechanism.

During the year in review, Romania has introduced an internal written procedure for the exchange of information, which covers a review and supervision mechanism. Romania centralised the procedure to collect information with regard to the tax rulings, within the staff from the Directorate for transfer pricing and tax rulings. The head of the APA department performs a quality control check of the information completed. The Directorate for transfer pricing and tax rulings is then responsible for a final validation. In light of this, this aspect of the ToR is met and the recommendation is now removed.

### ***Conclusion on section A***

Romania 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)**

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.

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) double tax agreements in force with 88 jurisdictions.<sup>1</sup>

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

In the prior year peer review report, it was determined that Romania was still developing 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. As described above, during the year in review, Romania has introduced an internal written procedure for the exchange of information. This includes the process to identify the information and to fill in the information required in the template in the form of Annex C, as well as a quality control process to ensure the information is complete and in the correct form. The information is verified by the head of the APA department and then a final validation prior to the exchange is made by the Director of the directorate for transfer pricing and tax rulings. Once the template is validated, it is uploaded into a central information management platform and submitted for spontaneous exchange of information. The written procedure provides that the timelines for submission to the Competent Authority is as soon as possible and the timeline for the Competent Authority to exchange is within three months of the issue of the ruling. In light of this, the ToRs II.5.3, II.5.4 and II.5.5 are met and the recommendation is now removed.

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 2018	Delayed exchanges		
		Number of exchanges not transmitted by 31 December 2018	Reasons for the delays	Any other comments
	0	12	Procedural delays	Partially sent by March 2019
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
	0	7	Procedural delays	Partially sent by March 2019
<b>Total</b>	0	19		

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

During the year in review, there were delays in the exchange of information since Romania was still in the process of finalising the written procedure for spontaneous exchange of information. These delays include information that was noted as a delayed exchange in the prior year peer review report. Romania is recommended to ensure that all information on past and future rulings is exchanged as soon as possible.

### **Conclusion on section B**

Romania has the necessary legal basis for spontaneous exchange of information. During the year of review, Romania experienced delays in the exchange of all past rulings and future rulings due to the absence of written procedures on exchange of information. Romania has since introduced these processes and started performing exchanges in the 2019. These actions taken will be review in the next year's peer review report. Romania is recommended to ensure that all information on past and future rulings is exchanged as soon as possible (ToR II.5.6).

### **C. Statistics (ToR IV)**

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

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

Romania does not offer an intellectual property regime for which transparency requirements under the Action 5 Report (OECD, 2015<sup>[5]</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
Romania experienced delays in the exchange of all past rulings and future rulings since written procedures on exchange of information have only been recently introduced.	Romania is recommended to ensure that all information on past and future rulings is exchanged as soon as possible. This recommendation remains unchanged since the prior year peer review report.

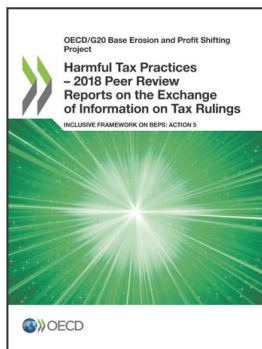
### **Notes**

<sup>1</sup> Parties to the Convention are available here: <http://www.oecd.org/tax/exchange-of-tax-information/convention-on-mutual-administrative-assistance-in-tax-matters.htm>

Romania also has double tax 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.

Note by Turkey: The information in this document with reference to “Cyprus” relates to the southern part of the Island. There is no single authority representing both Turkish and Greek Cypriot people on the Island. Turkey recognises the Turkish Republic of Northern Cyprus (TRNC). Until a lasting and equitable solution is found within the context of the United Nations, Turkey shall preserve its position concerning the “Cyprus issue”.

Note by all the European Union Member States of the OECD and the European Union. The Republic of Cyprus is recognised by all members of the United Nations with the exception of Turkey. The information in this document relates to the area under the effective control of the Government of the Republic of Cyprus.



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