

Bulgaria

Summary of key findings

1. Consistent with the agreed methodology this first annual peer review covers: (i) the domestic legal and administrative framework, (ii) certain aspects of the exchange of information framework as well as (iii) certain aspects of the confidentiality and appropriate use of CbC reports. Bulgaria's implementation of the Action 13 minimum standard meets all applicable terms of reference. This report, therefore, contains no recommendations.

Part A: Domestic legal and administrative framework

2. Bulgaria has rules (primary law) in place that impose and enforce CbC requirements on the Ultimate Parent Entity of a multinational enterprise group ("MNE" Group) that is resident for tax purposes in Bulgaria. The first filing obligation for a CbC report in Bulgaria commences in respect of reporting fiscal years beginning on 1 January 2016 or later. Bulgaria meets all the terms of reference relating to the domestic legal and administrative framework.¹

Part B: Exchange of information framework

3. Bulgaria is a signatory to the *Multilateral Convention on Mutual Administrative Assistance in Tax Matters: Amended by the 2010 Protocol* (OECD/Council of Europe, 2011) which came into force on 1 July 2016. The Convention is therefore not in effect with respect to the fiscal year starting 1 January 2016. Bulgaria has submitted a Unilateral Declaration to align the effective date of the Convention with the first intended exchanges of information on CbC reports under the CbC MCAA (as permitted under paragraph 6 of Article 28 of the Convention), in order to enable exchanges of CbC reports relating to the reporting fiscal year 2016 with other jurisdictions that also provide the same Unilateral Declaration. Bulgaria is also a signatory to the CbC MCAA (signed on 17 November 2017). It has submitted notifications under Section 8 of this agreement and it intends to have the CbC MCAA in effect with all other Competent Authorities that provide a notification under paragraph 1(e) of Section 8 of the same agreement. As of 12 January 2018, Bulgaria has 45 bilateral relationships activated under the CbC MCAA or exchanges under the EU Council Directive (2016/881/EU). Bulgaria has taken steps to have QCAAs in effect with other jurisdictions of the Inclusive Framework that meet the confidentiality and consistency conditions. Against the backdrop of the still evolving exchange of information framework, at this point in time Bulgaria thus meets the terms of reference relating to the exchange of information network aspects under review for this first annual peer review process.²

Part C: Appropriate use

4. There are no concerns to be reported for Bulgaria. Bulgaria indicates that measures are in place to ensure the appropriate use of information in all six areas identified in the *OECD Guidance on the appropriate use of information contained in Country-by-Country reports* (OECD, 2017a). It has provided details in relation to these measures, enabling it to answer “yes” to the additional questions on appropriate use.³ Bulgaria meets the terms of reference relating to the appropriate use aspects under review for this first annual peer review.⁴

Part A: The domestic legal and administrative framework

5. Part A assesses the domestic legal and administrative framework of the reviewed jurisdiction by reviewing the (a) parent entity filing obligation, (b) the scope and timing of parent entity filing, (c) the limitation on local filing obligation, (d) the limitation on local filing in case of surrogate filing and (e) the effective implementation.

6. Bulgaria has primary law (hereafter the “Tax Code”) in place to implement BEPS Action 13 minimum standard, establishing the necessary requirements, including the filing and reporting obligations.⁵ Secondary law is not foreseen as all relevant provisions are covered by the primary law.⁶ Guidance has also been published.⁷

(a) Parent entity filing obligation

Summary of terms of reference:⁸ Introducing a CbC filing obligation which applies to Ultimate Parent Entities of MNE Groups above a certain threshold of revenue, whereby all required Constituent Entities of the MNE Group are included in the CbC report and no entity is excluded from CbC Reporting other than permitted (paragraph 8 (a) of the terms of reference).

7. Bulgaria has introduced a domestic legal and administrative framework which imposes a CbC filing obligation on Ultimate Parent Entities of MNE Groups which have consolidated group revenues equal to or above EUR 750 million,⁹ whereby all required Constituent Entities of the MNE Group are included in the CbC report and no entity is excluded from CbC Reporting other than permitted by the Action 13 report (OECD, 2015).

8. No inconsistencies were identified with respect to the parent entity filing obligation.¹⁰

(b) Scope and timing of parent entity filing

Summary of terms of reference: Providing that the filing of a CbC report by an Ultimate Parent Entity commences for a specific fiscal year; includes all of, and only, the information required; and occurs within a certain timeframe; and the rules and guidance issued on other aspects of filing requirements are consistent with, and do not circumvent, the minimum standard (paragraph 8 (b) of the terms of reference).

9. The first filing obligation for a CbC report in Bulgaria commences in respect of reporting fiscal years starting on or after 1 January 2016.¹¹ The CbC report must be filed within 12 months after the end of the reporting fiscal year of the MNE Group.¹²

10. No inconsistencies were identified with respect to the scope and timing of parent entity filing.¹³

(c) Limitation on local filing obligation

Summary of terms of reference: If local filing requirements have been introduced, that such requirements may apply only to Constituent Entities which are tax residents in the reviewed jurisdiction, whereby the content of the CbC report does not contain more than that required from an Ultimate Parent Entity, whereby the reviewed jurisdiction meets the confidentiality, consistency and appropriate use requirements, whereby local filing may only be required under certain conditions and whereby one Constituent Entity of an MNE Group in the reviewed jurisdiction is allowed to file the CbC report, satisfying the filing requirement of all other Constituent Entities in the reviewed jurisdiction (paragraph 8 (c) of the terms of reference).

11. Bulgaria has introduced local filing requirements in respect of reporting fiscal years beginning on or after 1 January 2017.¹⁴

12. No inconsistencies were identified with respect to the limitation on local filing obligation.

(d) Limitation on local filing in case of surrogate filing

Summary of terms of reference: If local filing requirements have been introduced, that local filing will not be required when there is surrogate filing in another jurisdiction when certain conditions are met (paragraph 8 (d) of the terms of reference).

13. Bulgaria's local filing requirements will not apply if there is surrogate filing in another jurisdiction by an MNE group.¹⁵ No inconsistencies were identified with respect to the limitation on local filing in case of surrogate filing.

(e) Effective implementation

Summary of terms of reference: Providing for enforcement provisions and monitoring relating to CbC Reporting's effective implementation including having mechanisms to enforce compliance by Ultimate Parent Entities and Surrogate Parent Entities, applying these mechanisms effectively, and determining the number of Ultimate Parent Entities and Surrogate Parent Entities which have filed, and the number of Constituent Entities which have filed in case of local filing (paragraph 8 (e) of the terms of reference).

14. Bulgaria has legal mechanisms in place to enforce compliance with the minimum standard. There are notification mechanisms in place that apply to the Ultimate Parent Entity, the Surrogate Parent Entity or any Constituent Entity.¹⁶ There are also penalties in place in relation to the filing and notification obligations under CbC Reporting:

(i) penalties for failure to file,¹⁷ (ii) penalties for providing false or incomplete data¹⁸ and (iii) penalties for failure to provide appropriate notifications.¹⁹

15. It is noted that there are no specific process to take appropriate measures in case Bulgaria is notified by another jurisdiction that it has reason to believe with respect to a Reporting Entity that an error may have led to incorrect or incomplete information reporting or that there is non-compliance of a Reporting Entity with respect to its obligation to file a CbC report. As no exchange of CbC reports has yet occurred, no recommendation is made but this aspect will be further monitored in the next annual peer review process.

Conclusion

16. In respect of paragraph 8 of the terms of reference (OECD, 2017b), has implemented its domestic legal and administrative framework to impose and enforce CbC requirements on the Ultimate Parent Entity of an MNE Group that is resident for tax purposes in Bulgaria. Bulgaria meets all the terms of reference relating to the domestic legal and administrative framework.

Part B: The exchange of information framework

17. Part B assesses the exchange of information framework of the reviewed jurisdiction. For this first annual peer review process, this includes reviewing certain aspects of the exchange of information framework as specified in paragraph 9 (a) of the terms of reference (OECD, 2017b).

Summary of terms of reference: within the context of the exchange of information agreements in effect of the reviewed jurisdiction, having QCAAs in effect with jurisdictions of the Inclusive Framework which meet the confidentiality, consistency and appropriate use prerequisites (paragraph 9 (a) of the terms of reference).

18. Bulgaria has domestic legislation that permits the automatic exchange of CbC reports: it is a Party to (i) the *Multilateral Convention on Mutual Administrative Assistance in Tax Matters: Amended by the 2010 Protocol* (OECD/Council of Europe, 2011) (the “Convention”) (signed on 26 October 2015 and in force on 1 July 2016) and (ii) multiple bilateral Double Tax Agreements.²⁰ It also implemented the EU Council Directive 2016/881 of 25 May 2016, amending Directive 2011/16/EU as regards mandatory Automatic Exchange of Information in the field of taxation. The Convention is not in effect with respect to the fiscal year starting on 1 January 2016. This means that Bulgaria would not be able in theory to exchange (either send or receive) CbC reports with respect to 2016 fiscal year and would not send or receive CbC reports under the Convention and CbC MCAA on the first exchange date in mid-2018. Bulgaria has however lodged a Unilateral Declaration to align the effective date of the Convention with the first intended exchanges of information on CbC reports under the CbC MCAA. This Unilateral Declaration enables exchanges of CbC reports relating to the fiscal year 2016 (by aligning the effective date of the Convention with first intended exchanges of CbC Reports under the CbC MCAA, as permitted under paragraph 6 of Article 28 of the Convention²¹) with other jurisdictions that have provided the same Unilateral Declaration.

19. Bulgaria is also a signatory of the CbC MCAA (signed on 17 November 2017) and has submitted a full set of notifications under Section 8. It intends to have the

CbC MCAA in effect with all other Competent Authorities that provide a notification under paragraph 1(e) of Section 8 of the same agreement. As of 12 January 2018, Bulgaria has 45 bilateral relationships activated under the CbC MCAA²² or exchanges under the EU Council Directive (2016/881/EU). Bulgaria has taken steps to have QCAAs in effect with other jurisdictions of the Inclusive Framework that meet the confidentiality and consistency conditions. Against the backdrop of the still evolving exchange of information framework, at this point in time Bulgaria meets the terms of reference.

Conclusion

20. Against the backdrop of the still evolving exchange of information framework, at this point in time Bulgaria meets the terms of reference relating to the exchange of information framework.

Part C: Appropriate use

21. Part C assesses the compliance of the reviewed jurisdiction with the appropriate use condition. For this first annual peer review process, this includes reviewing certain aspects of appropriate use.

Summary of terms of reference: having in place mechanisms to ensure that CbC reports which are received through exchange of information or by way of local filing can be used only to assess high level transfer pricing risks and other BEPS-related risks and for economic and statistical analysis where appropriate; and cannot be used as a substitute for a detailed transfer pricing analysis or on their own as conclusive evidence on the appropriateness of transfer prices or to make adjustments of income of any taxpayer on the basis of an allocation formula (paragraphs 12 (a) of the terms of reference).

22. In order to ensure that a CbC report received through exchange of information or local filing can be used only to assess high-level transfer pricing risks and other BEPS-related risks, and, where appropriate, for economic and statistical analysis, and in order to ensure that the information in a CbC report cannot be used as a substitute for a detailed transfer pricing analysis of individual transactions and prices based on a full functional analysis and a full comparability analysis; or is not used on its own as conclusive evidence that transfer prices are or are not appropriate; or is not used to make adjustments of income of any taxpayer on the basis of an allocation formula (including a global formulary apportionment of income), Bulgaria indicates that measures are in place to ensure the appropriate use of information in all six areas identified in the *OECD Guidance on the appropriate use of information contained in Country-by-Country reports* (OECD, 2017a). It has provided details in relation to these measures, enabling it to answer “yes” to the additional questions on appropriate use.

23. There are no concerns to be reported for Bulgaria in respect of the aspects of appropriate use covered by this annual peer review process.

Conclusion

24. In respect of paragraph 12 (a) of the terms of reference (OECD, 2017b), there are no concerns to be reported for Bulgaria. Bulgaria thus meets these terms of reference.

Summary of recommendations on the implementation of Country-by-Country Reporting

Aspect of the implementation that should be improved			Recommendation for improvement
Part A	Domestic legal and administrative framework	-	
Part B	Exchange of information framework	-	
Part C	Appropriate use	-	

Notes

¹ Paragraph 8 of the terms of reference (OECD, 2017b).

² Paragraph 9 (a) of the terms of reference (OECD, 2017b).

³ These questions were circulated to all members of the Inclusive Framework following the release of the Guidance on the appropriate use of information in CbC reports on 6 September 2017, further to the approval of the Inclusive Framework.

⁴ Paragraph 12 (a) of the terms of reference (OECD, 2017b).

⁵ Primary law consists of the amended Tax and Social Security Procedure Code in relation to the CbC Reporting (adopted by Parliament on 20 July 2017 and published in the State Gazette on 4 August 2017) (hereafter the “Tax Code”). See Articles 143s to 143z, Article 268a, Paragraph 1, items 33-45 of the Additional provisions and paragraphs 25-26 of the Transitional and final provisions of the Tax Code. An amendment to the Tax Code was published in the State Gazette on 17 November 2017 which amends Article 143w only. See <http://dv.parliament.bg/DVWeb/showMaterialDV.jsp?idMat=119626> (accessed 11 April 2018).

⁶ Secondary legislation is not foreseen but nevertheless, according to Art. 143u, para 3 of the Tax Code, the country-by-country report will be filed electronically on an annual basis and under a procedure and in a format approved by an order of the executive director of the National Revenue Agency, which shall be published on the webpage of the National Revenue Agency.

⁷ Guidance including instructions for filling in and filing a CbC report under Article 143t of the Tax Code was published on the website of the National Revenue Agency: <http://nap.bg/document?id=15669> (accessed 11 April 2018).

⁸ The « summary of terms of reference » is provided to facilitate the reading of the report. Reference should be made to the exact wording of the terms of reference published in February 2017 (OECD, 2017b).

⁹ Under Bulgaria’s legislation, Bulgarian Ultimate Parent Entities that are tax residents in Bulgaria and which have a total consolidated group revenue in the fiscal year immediately preceding the reporting fiscal year of BGN 100 000 000 (approximately equivalent to EUR 50 million) are required to file a CbC report. Bulgaria will only exchange CbC reports submitted by Bulgarian Parent Entities of MNE Groups which have a total consolidated group revenue in the fiscal year immediately preceding the reporting fiscal year of BGN 1 466 872 500 (approximately equivalent to EUR 750 million). Bulgaria indicates that the CbC reports for groups below this threshold will be used for domestic risk assessment purposes only and will not be exchanged with other jurisdictions.

¹⁰ As per amended Article 143w of the amended Tax Code gazetted on 17 November 2017, the rule for the threshold calculation for currency fluctuations for MNE groups whose Ultimate Parent Entity is located in a jurisdiction other than Bulgaria is to be applied in accordance with OECD guidance.

¹¹ See Paragraph 25(1) of the Tax Code.

¹² See Paragraph 17 Article 143u.(1) of the Tax Code.

¹³ In the Bulgarian instructions for filling in and filing a CbC Report, it is noted that there is a requirement to indicate the exchange rate used and the calculation methodology in Table 3 where the Consolidated Financial Statements of an MNE Group are prepared in a foreign currency and the revenue is converted into BGN. In addition, the “number of employees” to be reported should include those hiring out of labour relationship.

¹⁴ See Paragraph 25(2) of the Tax Code.

¹⁵ See Paragraph 17 Article 143w (5) of the Tax Code.

¹⁶ See Paragraph 17 See Article 143y of the Tax Code.

¹⁷ See Paragraph 21 Article 278a. (1) of the Tax Code.

¹⁸ See Paragraph 21 Article 278a. (2) of the Tax Code.

¹⁹ See Paragraph 21 Article 278a. (3) and (4) of the Tax Code.

²⁰ Bulgaria reports 68 Double Tax Conventions (DTCs) in force with: Albania, Algeria, Armenia, Austria, Azerbaijan, Bahrain, Belarus, Belgium, Canada, China (People’s Republic of), Croatia, Cyprus, Czech Republic, Democratic People’s Republic of Korea, Denmark, Egypt, Estonia, Finland, Former Yugoslav Republic of Macedonia, France, Georgia, Germany, Greece, Hungary, India, Indonesia, Iran, Ireland, Israel, Italy, Japan, Jordan, Kazakhstan, Korea, Kuwait, Latvia, Lebanon, Lithuania, Luxembourg, Malta, Moldova, Mongolia, Montenegro, Morocco, Netherlands, Norway, Poland, Portugal, Qatar, Romania, Russia, Serbia, Singapore, Slovak Republic, Slovenia, South Africa, Spain, Sweden, Switzerland, Syrian Arab Republic, Thailand, Turkey, Ukraine, United Arab Emirates, United Kingdom, United States, Uzbekistan, Viet Nam and Zimbabwe. Bulgaria indicated that all DTCs of Bulgaria permit AEOI and no restrictions apply.

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.

²¹ Paragraph 6 of Article 28 of the Convention reads as follows: “[...] Any two or more Parties may mutually agree that the Convention [...] shall have effect for administrative assistance related to earlier taxable periods or charges to tax.”

²² It is noted that some Qualifying Competent Authority agreements are not in effect with jurisdictions of the Inclusive Framework that meet the confidentiality condition and have legislation in place: this may be because the partner jurisdictions considered do not have the Convention in effect for the first reporting period, or the partner jurisdiction has the Convention in effect for the first reporting period but did not submit a Unilateral Declaration (in regard of the fact that the reviewed jurisdiction does not have the Convention in effect for the first reporting period), or may not have listed the reviewed jurisdiction in their notifications under Section 8 of the CbC MCAA.

References

- OECD (2017a), *BEPS Action 13 on Country-by-Country Reporting: Guidance on the appropriate use of information contained in Country-by-Country reports*, OECD/G20 Base Erosion and Profit Shifting Project, OECD, Paris. www.oecd.org/tax/beps/beps-action-13-on-country-by-country-reporting-appropriate-use-of-information-in-CbC-reports.pdf.
- OECD (2017b), “Terms of reference for the conduct of peer reviews of the Action 13 minimum standard on Country-By-Country Reporting” in *BEPS Action 13 on Country-by-Country Reporting – Peer Review Documents*, OECD/G20 Base Erosion and Profit Shifting Project, OECD, Paris. www.oecd.org/tax/beps/beps-action-13-on-country-by-country-reporting-peer-review-documents.pdf.
- OECD (2015), *Transfer Pricing Documentation and Country-by-Country Reporting, Action 13 - 2015 Final Report*, OECD/G20 Base Erosion and Profit Shifting Project, OECD Publishing, Paris. <http://dx.doi.org/10.1787/9789264241480-en>.
- OECD/Council of Europe (2011), *The Multilateral Convention on Mutual Administrative Assistance in Tax Matters: Amended by the 2010 Protocol*, OECD Publishing, Paris, <http://dx.doi.org/10.1787/9789264115606-en>.



From:

Country-by-Country Reporting – Compilation of Peer Review Reports (Phase 1)

Inclusive Framework on BEPS: Action 13

Access the complete publication at:

<https://doi.org/10.1787/9789264300057-en>

Please cite this chapter as:

OECD (2018), “Bulgaria”, in *Country-by-Country Reporting – Compilation of Peer Review Reports (Phase 1): Inclusive Framework on BEPS: Action 13*, OECD Publishing, Paris.

DOI: <https://doi.org/10.1787/9789264300057-18-en>

This work is published under the responsibility of the Secretary-General of the OECD. The opinions expressed and arguments employed herein do not necessarily reflect the official views of OECD member countries.

This document and any map included herein are without prejudice to the status of or sovereignty over any territory, to the delimitation of international frontiers and boundaries and to the name of any territory, city or area.

You can copy, download or print OECD content for your own use, and you can include excerpts from OECD publications, databases and multimedia products in your own documents, presentations, blogs, websites and teaching materials, provided that suitable acknowledgment of OECD as source and copyright owner is given. All requests for public or commercial use and translation rights should be submitted to rights@oecd.org. Requests for permission to photocopy portions of this material for public or commercial use shall be addressed directly to the Copyright Clearance Center (CCC) at info@copyright.com or the Centre français d'exploitation du droit de copie (CFC) at contact@cfcopies.com.