

# Democratic Republic of Congo

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<sup>[1]</sup>) (ToR) for the calendar year 2022 (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's report, as well as in the 2020 peer review report, the Democratic Republic of the Congo had received the same recommendations. As they have not been addressed, the recommendations remain in place.

It is not known which types of rulings the Democratic Republic of the Congo can legally issue within the scope of the transparency framework.

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, as well as for the prior year, 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.

## Information gathering process (ToR I.A)

343. It is not known which types of rulings the Democratic Republic of the Congo can legally issue within the scope of the transparency framework.

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

344. 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.

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

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

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

347. In the prior year's peer review report, the Democratic Republic of the Congo was recommended to put in place an information gathering process for future rulings as soon as possible.

348. During the year in review, as it is not known whether the Democratic Republic of the Congo has finalised its information gathering process, the recommendation remains in place.

### **Review and supervision (ToR I.A.3)**

349. In the prior years' peer review report, the Democratic Republic of the Congo was recommended to have in place a review and supervision mechanism to ensure that all relevant information is captured adequately. As it is not known whether the Democratic Republic of the Congo has put in place a review and supervision mechanism under the transparency framework for the year in review, the recommendation remains in place.

### **Conclusion on section A**

350. 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).

## Exchange of information (ToR II.B)

### **Legal basis for spontaneous exchange of information (ToR II.B.1, II.B.2)**

351. It is not known whether the Democratic Republic of the Congo has the necessary domestic legal basis to exchange information spontaneously.

352. The Democratic Republic of the Congo is not a party to the (i) the *Multilateral Convention on Mutual Administrative Assistance in Tax Matters: Amended by the 2010 Protocol* (OECD/Council of Europe, 2011<sup>[2]</sup>) ("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)**

353. In the prior years' peer review reports, 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. It is not known whether the Democratic Republic of the Congo has already put in place such a process for the year in review.

354. 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**

355. 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).

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

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

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

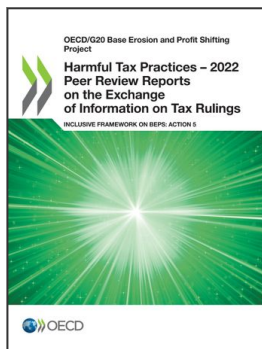
357. The Democratic Republic of the Congo does not offer an intellectual property regime for which transparency requirements under the Action 5 Report (OECD, 2015<sup>[3]</sup>) were imposed.

## **Summary of recommendations on implementation of the transparency framework**

Aspect of implementation of the transparency framework that should be improved	Recommendation for improvement
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. This recommendation remains unchanged since the 2020 and 2021 peer review reports.
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. This recommendation remains unchanged since the 2020 and 2021 peer review reports.

## 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, <https://www.oecd.org/tax/beps/beps-action-5-harmful-tax-practices-peer-review-transparency-framework.pdf>. [1]
- 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://doi.org/10.1787/9789264241190-en>. [3]
- OECD/Council of Europe (2011), *The Multilateral Convention on Mutual Administrative Assistance in Tax Matters: Amended by the 2010 Protocol*, OECD Publishing, Paris, <https://doi.org/10.1787/9789264115606-en>. [2]



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