



**Republika e Kosovës**  
**Republika Kosova - Republic of Kosovo**  
*Qeveria - Vlada - Government*

**MINISTRY OF FINANCE LABOUR AND TRANSFERS**

**CONCEPT DOCUMENT**  
**ON DEALING WITH PREVENTION OF MONEY LAUNDERING AND COMBATING**  
**TERRORIST FINANCING**

December , 2023

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<b>General information</b>	
Title	Concept Document on dealing with money laundering and combating terrorist financing
Line Ministry	Ministry of Finance, Labor and Transfers
Contact person	Flutra Blakçori Xërxa, Head of Legal Affairs and International Cooperation Sector, Financial Intelligence Unit of Kosovo
National Development Plan NDP 2023-2025	Drafting and the approval of the Concept document for the Prevention of Money Laundering and Combating the Financing of Terrorism is foreseen in the National Development Plan 2023-2025.
Strategic priority	The National Development Plan (NDP) - in Pillar VI - Good Governance, in the public finance sector, sector 02, development goal 10 - Effective and Accountable Government, has the action - Drafting and approval of the Concept Document for Combating the Prevention of Money Laundering Money/Combating the Financing of Terrorism in the National Development Plan- NDP 2023-2025 for the implementation of the strategic measure.

<b>Decision</b>	
The main issue	Addressing of prevention of money laundering and combating terrorist financing, as well as approximation of this field with the reviewed FATF standards and EU Acquis Communautaire.
Summary of consultations	<p>During the interministerial consultation process that took place for the concept document from 09/08/2023 to 09/28/2023, comments were received from the Government Coordinating Secretariat, Kosovo Cadastral Agency and the Tax Administration. In regard to the comments from the Kosovo Cadastral Agency, the Working Group agreed that they should be addressed by another specific law.</p> <p>[List the main public consultation activities carried out. Also, indicate the start date and end date of online public consultation. List the number of organizations that provided responses to this consultation, number of comments received and key conclusions from the public consultation process. Refer to the public consultation report to be submitted together with the concept paper for Government approval.]</p>
Proposed option	The third option where legislative changes are proposed.

Main expected impacts	
Budgetary impacts	It is implemented within the current budget limits.
Economic impacts	It is expected to have impacts on the prevention of money laundering, related criminal offenses and the fight against the financing of terrorism, the reduction of the informal economy and economic stability.
Social impacts	This impact is expected in terms of preventing money laundering and combating the financing of terrorism, demotivating criminality in this area through the punishment of persons who commit such criminal acts.
Environmental impacts	No relevant impacts are expected in this category
Cross-sectorial impacts	No relevant impacts are expected in this category
Administrative burdens on companies	The implementation of the preferred option offers the possibility of further reducing the administrative burden regarding the provision and maintenance of mandatory information.
SME Test	The SME test has not been applied

Further steps	
Short-term	Holding the inter-institutional meeting, and issuing the decision on the establishment of the Working Group for the revision of the Law on the Prevention of Money Laundering and Combating the Financing of Terrorism. Approval of the Law by the Government.
Midterm	Approval of the Law on Prevention of Money Laundering and Combating the Financing of Terrorism by the Assembly. Drafting and Review of by-laws and awareness of reporting entities with legal amendments.

## Introduction

The Concept Document has been prepared by the Ministry of Finance, Labor and Transfers in accordance with the Guideline and Manual for Drafting Concept Papers no. 95/2018 dated 21/03/2018 and in accordance with Government rules and procedures.

This Concept Document analyzes legislation and measures on the Prevention of Money Laundering and Combating Terrorist Financing existing in Kosovo, until its finalization date, as well as the compliance level of this legislation with FATF Recommendations, EU legislation, and the need for further advancement of the current compliance level.

Currently the field of preventing money laundering and combating terrorist financing in terms of technical compliance level is largely in line with international and European standards.

In Kosovo to date, two assessments have been carried out in the framework of technical assistance provided by the Council of Europe and the European Union through the Joint Project against Economic Crime in Kosovo (PECK). These assessments are based on the methodology applied to all Council of Europe member states by the Committee of Experts on the Evaluation of Anti-Money Laundering and Terrorist Financing Measures (MONEYVAL).

In Kosovo, the first evaluation cycle took place in the period 2012-2014 within the project PECK I. Its findings and recommendations later resulted in a number of legislative initiatives beyond the project duration. Furthermore, in December 2018, the results of the second cycle of the assessment of Kosovo's compliance with international standards in the field of preventing money laundering and combating terrorist financing (2018-2019) were published, which relies on further developed standards and MONEYVAL assessment methodologies.

The progress made by Kosovo institutions according to this report can be easily traced by comparing the results of the first and second assessments. According to the report, in preventing money laundering and combating terrorist financing (PML/CFT) field, compliance level has enhanced by almost half of the 40 Recommendations of the Global Financial Action Task Force (FATF). However, the new effectiveness comparison remains a challenge for the Kosovo authorities to consider.

The concept document on Preventing Money Laundering and Combating Terrorist Financing also labels the need to address some of the issues that have recently been regulated and advanced to the level of FATF and EU international standards. Nevertheless, they have not yet been addressed within the domestic legislative framework in the field of PML/CFT and this is intended to be regulated by the policies proposed in this concept document.

**Figure 1: General information table for the concept document**

Title	Concept Document on dealing with money laundering and combating terrorist financing.
Line Ministry	Ministry of Finance, Labor and Transfers
Contact person	Flutra Blakçori Xërxa, Head of Legal Affairs and International Cooperation Sector, Financial Intelligence Unit of Kosova
National Development Plan NDP 2023-2025	Drafting and the approval of the Concept document for the Prevention of Money Laundering and Combating the Financing of Terrorism is foreseen in the National Development Plan 2023-2025.
Strategic priority	The National Development Plan (NDP) - in Pillar VI - Good Governance, in the public finance sector, sector 02, development goal 10 - Effective and Accountable Government, has the action - Drafting and approval of the Concept Document for Combating the Prevention of Money Laundering Money/Combating the Financing of Terrorism in the National Development Plan- NDP 2023-2025 for the implementation of the strategic measure.
Working group	Pursuant to MF Decision with Protocol No. 821 dated 02/07/2020; <ol style="list-style-type: none"> <li>1. Flutra Blakçori Xërxa, Head of Legal Affairs and International Cooperation Sector, Kosovo Financial Intelligence Unit/FIU-K (Chair)</li> <li>2. Mirlinda Dreshaj Berisha, Financial Intelligence Unit/ FIU-K(Deputy Chair)</li> <li>3. Shpend Lushaku, Financial Intelligence Unit/ FIU-K(member)</li> <li>4. Astrit Hasani, Department for European Integration and Policy Coordination, Ministry of Finance/MoF (member)</li> <li>5. Razije Murtezaj, Legal Department, Ministry of Finance/MoF (member)</li> <li>6. Antigona Prenaj Bekaj, Budget Department, Ministry of Finance/MoF (member)</li> <li>7. Ganimete Abdullahu, Department of Public Communication, Ministry of Finance/MoF (member)</li> <li>8. Hasnije Bardhi, Gender Equality Officer, Ministry of Finance/MoF (member)</li> <li>9. Shqipdon Fazliu, National Coordinator for Combating Economic Crimes (member)</li> <li>10. Atdhe Dema, Prosecutor, Special Prosecution of the Republic of Kosovo/SPRK (member)</li> </ol>

	<p>11. Hysen Fazliu, Kosovo Police/KP (member)</p> <p>12. Agron Metolli, Kosovo Police/KP (member)</p> <p>13. Jeton Dragusha, Kosovo Tax Administration/TAK (member).</p> <p>14. Valbone Ymeri, Kosovo Customs/KC (member)</p> <p>15. Labinot Preniqi, Central Bank of Kosovo/CBK (member)</p> <p>16. Trendelina Qorraj, Department for European Integration and Policy Coordination, Ministry of Justice/MoF (member)</p> <p>17. Nita Prekazi, Department for Economic Criteria and Internal Market, Office of the Prime Minister/OPM (member)</p> <p>18. Mrika Pepa, Department for Economic Criteria, Office of the Prime Minister/OPM (member)</p> <p>19. Shkurte Krasniqi, Central Coordination Secretariat, Office of the Prime Minister/OPM (member)</p> <p>20. Dren Puka, KCSF, Civil Society Organization/CSO (member)</p> <p>21. Alban Hetemi, Kosovo Banking Association/KBA (member)</p> <p>22. Sefadin Blakaj, Kosovo Notary Chamber/KNC (member)</p> <p>23. Venhar Hana, Kosovo Insurance Association/KIA (member)</p> <p>24. Vlora Marmullakaj, Project against Economic Crime in Kosovo/PECK III (observer).</p>
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## Chapter 1: Problem definition

### 1.1. Kosova policy and legislation framework

There is an integrated framework in the Republic of Kosovo in terms of preventing money laundering and combating terrorist financing. This legal framework, which is subject to elaboration in the following table, consists of the following legal acts:

1. Law on Prevention of Money Laundering and Combating the Financing of Terrorism;
2. Criminal Code of the Republic of Kosova;
3. Criminal Procedure Code;
4. Law on the Special Prosecution Office of the Republic of Kosovo;
5. Law on Extended Powers for Confiscation of Assets;
6. Regulation of the Central Bank of Kosova on Prevention of Money Laundering and Financing of Terrorism;
7. Law on the Implementation of Targeted International Financial Sanctions;
8. Law No. 08/L-026 on the amendment and supplement of Law No. 04/L-213 for International Legal Cooperation in Criminal Matters
9. Draft Law on the Register of Beneficiary Owners,

10. National Strategy of the Republic of Kosovo for the Prevention and Combating of the Informal Economy, Money Laundering, Financing of Terrorism and Financial Crimes 2019-2023
11. National Money Laundering and Terrorist Financing Risk Assessment - 2020
12. Recommended Action Plan for Improving the LML/CFT System 2020-2023,
13. State Strategy for the Prevention and Combating of Terrorism 2023 - 2028,
14. National Development Plan 2023-2025
15. Economic Reforms Program 2023-2025, as well as
16. By-laws deriving from the above legislation

**Law No. 05/L-096 on the Prevention of Money Laundering and Combating the Financing of Terrorism** - is the basic law in the field of AML/CFT which defines the measures, competent authorities and procedures for the detection, prevention and combating of money laundering of financing terrorism.

**Criminal Code No. 06/L-074 of the Republic of Kosovo** - in Article 302 the criminal offense of money laundering is defined, where it is described that anyone who commits the criminal offense of money laundering is punished according to the Law on the Prevention of Money Laundering and the Financing of Terrorism. Whereas, within the framework of Chapter XIV, criminal offenses against the constitutional order and security of the Republic of Kosovo are codified, where there are also definitions for terrorism provisions.

**Criminal Procedure Code No. 08/L-032 of the Republic of Kosovo** - the purpose of this Code is to determine the rules of the criminal procedure which are mandatory for the work of the courts, the state prosecutor's office and other participants in the criminal procedure provided for in this Code

Pursuant to Article 9 paragraph 1.1, the Special Prosecution Office has special case jurisdiction over "criminal offenses against the constitutional order and security of the Republic of Kosovo", which is conjunct to chapter XIV of the Criminal Code, which also includes criminal offenses related to terrorism. In regard to the criminal offense of money laundering, the Special Prosecution Office has jurisdiction over the criminal offense of money laundering committed together with [other] "criminal offenses that are within the competence of the SPRK, regardless of the amount or benefit". Also, the SPRK has jurisdiction over the criminal offense of money laundering, committed "as a single criminal offense, if the value of the amount or benefit is in the amount of five hundred thousand (500,000) euros or more.

**Law No. 06/L-087 on Extended Powers for Confiscation of Assets** - this law defines the extended powers for confiscation of property when the procedures according to the CPCRK are not sufficient. LEPCA introduced a quasi-criminal confiscation and goes one step further than the CPCRK by accommodating under certain conditions the confiscation of property that is not related to the specific criminal offense for which the defendant has been found guilty.

**The CBK Regulation on Prevention of Money Laundering and Financing of Terrorism** defines the criteria and procedures necessary for managing the process of preventing money laundering and financing of terrorism in compliance with Law no. 05/L-096 on Preventing Money



Laundering and Combating the Financing of Terrorism and applies to all banks, branches of foreign banks, microfinance institutions, insurance companies and non-bank financial institutions.

**Law No. 08/L-146 on the Implementation of Targeted International Financial Sanctions**, defines the measures, competent authorities and procedures for the proposal, approval, supervision and implementation of targeted international financial sanctions in the Republic of Kosovo, which are related to the prevention and fight against terrorism, the financing of terrorism and the proliferation of weapons of mass destruction, the development and strengthening of democracy, the rule of law and the achievement of other objectives in accordance with international law, relevant resolutions of the United Nations Security Council, acts of the Union European, the decisions of other international organizations in which the Republic of Kosovo is a member or which it implements.

**Law No. 04/L-213 supplemented and amended by Law No. 08/L-026 on International Legal Cooperation in Criminal Matters**, regulates the conditions and procedures for international legal cooperation in criminal matters between the Republic of Kosovo and other states, unless otherwise determined by international agreement.

**The Draft Law on the Register of Beneficial Owners**, deals with the creation, operation, administration of the register of beneficial owners, defines the obligations of natural persons and obliged entities who register beneficial ownership information in the register, as well as defines the punitive measures in case of non-compliance with the provisions of this law.

**The National Strategy of the Republic of Kosovo for the Prevention and Combating of the Informal Economy, Money Laundering, Financing of Terrorism and Financial Crimes 2019-2023**, is a document drafted by the Government of the Republic of Kosovo in full cooperation with its partners which covers the totality of the measures that the Government intends to implement through its law enforcement institutions for the prevention of all forms of the informal economy, the prevention of money laundering, the financing of terrorism and Financial Crimes in various sectors of economic activities in Kosovo through the Plan of Action 2019-2023. The strategic objectives envisaged in this strategy are to improve the quality of governance in the economy through the identification, analysis, treatment and monitoring of the fight against the informal economy, money laundering and terrorist financing and the increase of financial resources for public services as a result of additional revenues tax and confiscation of illegal assets.

**The National Risk Assessment Report of Money Laundering and Terrorist Financing**, approved by the Government of the Republic of Kosovo on 24.12.2020, is a process regulated by Article 18 (Risk assessment and prevention) of Law 05/L-096, which determines that the FIU-K periodically provides and coordinates the national risk assessment in terms of money laundering and terrorist financing, to identify and assess the risk and make recommendations to the Government in determining policies, strategies and risk management measures and to reduce the identified risks. The national risk assessment is undertaken at least every three (3) years and the Ministry of Finance, based on Article 66 of the Law on AML/LFT, issues a by-law in order to determine the procedures to be followed. For this purpose, the Ministry of Finance has issued the Administrative Instruction MF- No.04/2018 for the national risk assessment for money laundering and financing of terrorism, which regulates and defines the standard procedures for a general

process for the assessment of the national risk for money laundering money and the financing of terrorism and the informal economy (risk assessment), including the identification, analysis and assessment of risks and vulnerabilities.

In 2018, the second assessment of the risk of money laundering and financing of terrorism in Kosovo (NRA) was initiated. While conducting this assessment, the goal was to identify, understand and assess the risks of money laundering and terrorist financing that Kosovo faces. The terminology and methodology of the NRA based on the Administrative Instruction MF- No. 04/2018 for national risk assessment for AML/LFT and the guidance of the Financial Action Task Force (FATF). The basic concepts for risk assessment are threats (criminal offenses described related to money laundering), vulnerabilities (situations that enable money laundering), consequences (impact, vulnerability), and risk (synthesis of threat, vulnerability and consequence). NRA's objective is to better understand the risks of money laundering and terrorist financing in Kosovo, inform the efficient allocation of resources and mitigate those risks. The improved understanding that the NRA provides helps the government, law enforcement agencies, regulators and the private sector target their resources to the highest risk areas, ensuring that Kosovo's approach to financial crime prevention is grounded in risk and is proportional.

The first chapter provides a description of the methodology and definitions used to assess the risks of ML/FT in Kosovo; the second chapter presents the results of the threat assessment by the ML; the third chapter considers threats from the FT; while the fourth chapter contains the results of the assessment of vulnerabilities by the AML/CFT of various reporting entities in Kosovo.

**The Recommended Action Plan for the Improvement of the AML/CFT System** has been approved by the Government of the Republic of Kosovo on 12/24/2020 with Decision No. 05/52 and has a total of five (5) strategic objectives related to: Policies and Local Coordination for AML/CFT; Legal System and Operational Issues; Terrorist Financing and Proliferation Financing, Preventive Measures, Oversight, Persons and Legal Arrangements; as well as International Cooperation. This plan also has three annexes where annex 1 deals with (the technical part), annex 2 (the guide for the implementation of the tool for monitoring the implementation of the recommendations of the evaluation report), and annex 3 (the tools for monitoring the implementation of the recommendations from the report of assessment). Financial Intelligence Unit with decision No. 05/52 is assigned to properly monitor the implementation of the recommendations of the Assessment Report to enable me to review the effectiveness of the national system and to make recommendations in accordance with Article 14 of Law No. 05/L – 096 for AML/CFT, as well as with this decision, the working group was created to coordinate activities in the field of state policies for the prevention of money laundering, the fight against the financing of terrorism and the determination of long-term and short-term priorities.

**The State Strategy for the Prevention and Combating of Terrorism 2023 - 2028**, the purpose of this Strategy is to protect the Republic of Kosovo, its citizens, values and interests from the threats of terrorism, through the orientation of policies and the strengthening of the comprehensive approach to the prevention and combating of terrorism. This strategy is focused on four strategic objectives which are: Prevention, Protection, Tracking and Response.

**The National Development Plan 2023-2025** is a detailed development plan and is one of the main short-term and long-term orientation documents for the Government of Kosovo and contributes to the practical implementation of all the priorities of the National Development Strategy 2023. The National Development Plan (NDP) - in Pillar VI - Good Governance, to the public finance sector, sector 02, development goal 10 - Effective and Accountable Government, has the action - Drafting and approval of the Concept Document for Combating the Prevention of Money Laundering/Combating Financing of Terrorism in the National Development Plan-NDP 2023-2025 for the implementation of the strategic measure

**The Economic Reforms Program for 2023-2025** is a program that contributes to the orientation of structural reforms aimed at the operation of the market economy and increased competition, which are also reflected as the main bases in the Government Program 2021-2025. The overall policy framework of the Economic Reform Program is a combination of: (1) the economic recovery program that aims to address the recent crises; (2) a rules-based fiscal policy oriented towards the stability of public finances and, within the available fiscal space, the support of economic growth through capital investments and increased financing for priority areas of development; and (3) a series of priority structural reforms that address key obstacles to economic growth, supporting the development of competitive economic sectors and ensuring that economic growth is inclusive and supports well-being.

In addition, the Stabilization and Association Agreement (SAA) is the core of Kosovo-EU relations and its continued and effective implementation is key to Kosovo's advancement on its European path. The European Union has given particular importance to rule of law functioning, judicial reform and institutional capacity building in the context of its long-term assistance to Kosovo. In this regard, the fight against corruption, money laundering and terrorist financing are high priority areas which have a profound impact on various political processes, including the implementation of EU assistance to Kosovo aimed at capacity building and security of effectiveness in combating and preventing these negative phenomena.

Further, in the following table other legal acts are treated which are currently not related to the prevention of money laundering and combating terrorism, but are seen by the working group as acts on which the impact will be extended regarding the analysis of this concept paper. Therefore, the legal acts potentially related to preventing money laundering and combating terrorist financing are:

1. Law on Business Organizations;
2. Law on Freedom of Associations in Non-Governmental Organizations;

Thus, the table below lists the legal and sub-legal acts relevant to the issue addressed in this Concept Document identifies the responsible institutions for implementation and the respective competencies of these institutions.

## 1.2. International and European Standards

In preparing this Concept Document, the Ministry of Finance, Labor and Transfers has considered a number of international instruments related to the prevention of money laundering and combating terrorist financing. Given the scope of this Concept Document, the analysis done for the purposes of this section is more focused on FATF<sup>1</sup> and European Union legislation in this area.

The FATF recommendations set out a comprehensive and consistent framework of measures that countries must implement to combat money laundering and terrorist financing, as well as financing the proliferation of weapons of mass destruction. These recommendations set an international standard, which countries must implement through measures adapted to their specific circumstances.

The Forty FATF Recommendations were first drafted in 1990 as an initiative to combat the misuse of financial systems by drug money launderers. In 1996, the Recommendations were first revised to reflect emerging money laundering trends and techniques, and to extend their scope beyond drug money laundering. In October 2001 the FATF expanded its mandate to address the issue of financing terrorist acts and terrorist organizations, and took the important step of establishing the Eight Special Recommendations (later expanded to Nine) on Terrorist Financing.

The FATF Recommendations were revised a second time in 2003, and these, together with Special Recommendations, have been adopted by over 180 countries and are universally recognized as the international standard for money laundering and combating terrorist financing.

Then in 2012, we have the FATF standards that have been revised to strengthen global guarantees and further protect the integrity of the financial system by providing governments with stronger tools to take action against financial crime. These standards are in force constantly undergoing updates in order to enhance the effectiveness of money laundering and terrorist financing prevention system.

The FATF Recommendations set out the key measures countries should take to:

- risk identification, policy development and internal coordination;
- pursuing money laundering, terrorist financing and proliferation financing;
- implementing preventive measures for the financial sector and certain other sectors;
- establishing competencies and responsibilities for competent authorities (e.g., investigative, law enforcement and oversight authorities) and other institutional measures;
- increasing transparency and availability of beneficial ownership information of legal entities and legal agreements; and

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<sup>1</sup> Financial Action Task Force Recommendation <https://www.fatf-gafi.org/media/fatf/documents/recommendations/pdfs/FATF%20Recommendations%202012.pdf>

- facilitating international cooperation.

The FATF Standards contain their Recommendations and their Interpretive Notes, along with applicable definitions in the dictionary. All FATF and FSRB members must implement measures set out in the FATF Standards<sup>2</sup>, and their implementation is strictly assessed through the Mutual Assessment processes and through the assessment processes of the International Monetary Fund and the World Bank - based on the common FATF assessment methodology.

Kosova, not being a member of an FSBR, has conducted two assessments, but these assessments were conducted within the joint project "Project against Economic Crime in Kosovo" of the European Union and the Council of Europe, which project is ongoing in Kosovo since 2012. The evaluations carried out within the Project follow the methodology of the monitoring mechanism of the Council of Europe, namely MONEYVAL and these evaluations have resulted in concrete findings and recommendations. Still, they have also provided Kosovo institutions with practical experience in planning, implementing and coordinating the fight against money laundering and terrorist financing, enabling Kosovo to align with internationally accepted standards in this area.

In addition to FATF standards, important for the analysis of this Concept Document is the European Union legislation, specifically the European Union Directive 2015/849 of the European Parliament and of the Council, dated 20 May 2015, "On the prevention of the use of the financial system for the purposes of money laundering or terrorist financing, amending Regulation (EU) No 648/2012 of the European Parliament and of the Council and repealing Directive 2005/60/EC of the European Parliament and of the Council and the Commission Directive 2006/70/EC", amended by the European Union Directive 2018/843 of the European Parliament and of the Council, dated 30 May 2018.

According to the analysis of the assessment carried out by the experts of the Council of Europe in the framework of the PML/CFT Assessment Report 2017, under the ANNEX Key findings about Kosova's Compliance with the 4th PML Directive of the European Union should be submitted to you review by the working group during the process of drafting amendments to the Law on PML/CFT.

Finally, in February 2018, the European Parliament and the Council adopted the above-mentioned European Union Directive 2018/843 with the aim of establishing a more unified regime on the following issues:

- Improving transparency towards real owners of companies and trusts to prevent money laundering and terrorist financing through obscure structures;

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<sup>2</sup> FATF Style Regional Body

- Improving financial intelligence units performance by linking beneficial ownership registers to EU level;
- Addressing terrorist financing risks associated with the anonymous use of virtual currencies and other "pre-paid" payment instruments;
- Improving and strengthening cooperation between financial supervisory authorities, PML/CFT supervisors and the European Central Bank; and
- Extending the criteria for assessing high-risk third countries and ensuring a high level of safeguards for financial flows and improving controls on transactions by such countries.

Further, the European Commission on 20 July 2021 has recently presented a package of legislative proposals to strengthen EU rules against money laundering and combating terrorist financing<sup>3</sup>. This legislative package consists of the following four (4) legislative proposals:

- Regulation establishing a new PML/CFT Authority at EU level;
- PML/CFT Regulation, which contains directly applicable rules, including the area of Customer Due Diligence and Beneficial Ownership;
- The Sixth PML/CFT Directive ("PMLD6"), replacing the existing Directive 2015/849/EU (the fourth PML Directive as amended by the fifth PML Directive), which contains provisions to be transposed into national legislation, such as are the rules on national supervisors and Financial Intelligence Units in the Member States; and
- The revision of Regulation 2015 on Transfers of Funds to trace transfers of crypto-assets (Regulation 2015/847/EU).

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<sup>3</sup> European Commission (2021), Beating financial crime: Commission overhauls anti-money laundering and countering the financing of terrorism rules, Available at [https://ec.europa.eu/commission/presscorner/detail/en/ip\\_21\\_3690](https://ec.europa.eu/commission/presscorner/detail/en/ip_21_3690), accessed on 25 May 2022

***Figure 2: Relevant policy documents, laws and bylaws***

Policy document, law or by-law	Link to the Official Gazette	State institution(s) responsible for implementation	Role and tasks of the Institution(s)
<p>Law No. 05/L -096 on the Prevention of Money Laundering and Combating Terrorist Financing</p>	<p><a href="https://gzk.rks-gov.net/ActDetail.aspx?ActID=12540">https://gzk.rks-gov.net/ActDetail.aspx?ActID=12540</a></p>	<p>Financial Intelligence Unit</p> <p>Board of the Financial Intelligence Unit</p> <p>Central Bank of Kosovo</p>	<p><b>Drafting legislation and overseeing implementation</b></p> <p><b>Legislation implementation:</b> The FIU-K is a central independent national institution within the Ministry of Finance, responsible for requesting, receiving, analyzing and disseminating to the competent authorities, and disclosures of information, which concern potential money laundering and terrorist financing.</p> <p><b>Implementation of Legislation:</b> The Oversight Board of the Financial Intelligence Unit shall oversee and ensure independence of the FIU-K, but has no executive or enforcement powers vis-à-vis the FIU-K. The Board has several powers, including reviewing, approving and rejecting FIU-K reports, appointing, dismissing, monitoring and assessing the performance of the FIU-K Director, approving internal organization regulations upon the proposal of the FIU-K Director, budgeting, monitoring of assets as declared by the Director, as well as performing the function of a coordinating mechanism responsible for determining the orientation of state policies to prevent money laundering and terrorist financing based on identified risks, as well as enhancing cooperation among institutions in accordance with the purposes of this law. For this purpose, it may invite other stakeholders from the public and private sector.</p>

		<p>Special Prosecution of the Republic of Kosovo</p> <p>Kosova Customs</p> <p>Municipal Cadastral Offices</p> <p>Non-public entities subject to activities that may be related to money laundering and terrorist financing</p>	<p><b>Legislation implementation:</b> The CBK oversees compliance with reporting entities in sub-paragraphs 1.1 and 1.2 of article 16 of this law, according to the competencies given by this law.</p> <p><b>Legislation implementation:</b> The criminal offenses of money laundering and terrorist financing described in Articles 56 and 57 of this Law fall within the exclusive competence of the Special Prosecution of the Republic of Kosovo, established by the Law on the Special Prosecution of the Republic of Kosova.</p> <p><b>Legislation implementation:</b> Controls the mandatory declaration of circulation of monetary instruments inside and outside Kosova</p> <p><b>Legislation implementation:</b> When the transfer of immovable property rights involves a transaction or transactions in a monetary value of ten thousand (10,000) euros or more or the equivalent value in foreign currency, it does not register the transfer of immovable property rights until it receives, in addition to other documents submitted in accordance with the law on registration of transfer, a statement, in the manner and form specified by the FIU-K.</p> <p><b>Legislation implementation:</b> The entities defined according to article 16 of this law undertake actions and measures for the prevention and detection of money laundering and terrorist financing defined by this law.</p>
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<p>Criminal Code of the Republic of Kosovo</p>	<p><a href="https://gzk.rks-gov.net/ActDetail.aspx?ActID=18413">https://gzk.rks-gov.net/ActDetail.aspx?ActID=18413</a></p>	<p>Ministry of Justice  Courts</p>	<p><b>Drafting legislation and overseeing implementation</b></p> <p><b>Legislation implementation:</b> Article 302 of the Criminal Code defines the criminal offense of money laundering - whoever commits the offense of money laundering shall be punished as set forth in the Law on the Prevention of Money Laundering and Terrorist Financing.</p> <p>Article 131 of the Criminal Code defines the criminal offense of Facilitation and financing of the commission of terrorism</p>
<p>Criminal Procedure Code</p>	<p><a href="https://gzk.rks-gov.net/ActDetail.aspx?ActID=61759">https://gzk.rks-gov.net/ActDetail.aspx?ActID=61759</a></p>	<p>Ministry of Justice  Courts</p>	<p><b>Drafting legislation and overseeing implementation</b></p> <p><b>Legislation implementation:</b> The purpose of the Criminal Procedure Code is to determine the rules of criminal procedure which are mandatory for the work of the courts, the state prosecutor's office and other participants in the criminal procedure provided by this Code.</p>
<p>Law No. 08/L-168 on Special Prosecution Office</p>	<p><a href="https://gzk.rks-gov.net/ActDocumentDetail.aspx?ActID=84236">https://gzk.rks-gov.net/ActDocumentDetail.aspx?ActID=84236</a></p>	<p>Special Prosecution Office</p>	<p><b>Drafting legislation and overseeing implementation</b></p> <p><b>Legislation implementation:</b> Pursuant to Article 9 paragraph 1.1, the Special Prosecution Office has special case jurisdiction over "criminal offenses against the constitutional order and security of the Republic of Kosovo", which is conjunct to chapter XIV of the Criminal Code, which also includes criminal offenses related to terrorism. In regard to the criminal offense of money laundering, the Special Prosecution Office has jurisdiction over the criminal offense of money laundering committed together with [other] "criminal offenses that are within the competence of the SPRK, regardless of the amount or benefit". Also, the SPRK has jurisdiction over the criminal offense of money laundering,</p>

			committed "as a single criminal offense, if the value of the amount or benefit is in the amount of five hundred thousand (500,000) euros or more.
Law on Extended Powers for Confiscation of Assets	<a href="https://gzk.rks-gov.net/ActDocumentDetail.aspx?ActID=18337">https://gzk.rks-gov.net/ActDocumentDetail.aspx?ActID=18337</a>	Ministry of Justice  Courts  Prosecution Office	<b>Drafting legislation and overseeing implementation</b>  <b>Legislation implementation:</b> This Law defines the extended powers for the confiscation of assets when the detailed procedures in the Criminal Procedure Code of the Republic of Kosova are not sufficient.
Central Bank of Kosovo Regulation on Prevention of Money Laundering and Terrorist Financing	<a href="https://bqk-kos.org/repository/docs/korniza_ligjore/shqip/Rregullore%20per%20parandalimin%20e%20pastrimit%20te%20parave%20.pdf">https://bqk-kos.org/repository/docs/korniza_ligjore/shqip/Rregullore%20per%20parandalimin%20e%20pastrimit%20te%20parave%20.pdf</a>	Central Bank of Kosovo	<b>Drafting legislation and overseeing implementation</b>  <b>Legislation implementation:</b> The CBK oversees financial institutions in terms of compliance with obligations under the PML/CFT Law and this Regulation.  This Regulation applies to all banks, foreign bank branches, microfinance institutions, non-banking financial institutions and insurers.
Law on Implementation of international targeted financial sanctions	<a href="https://gzk.rks-gov.net/ActDetail.aspx?ActID=68497">https://gzk.rks-gov.net/ActDetail.aspx?ActID=68497</a>	Ministry of Foreign Affairs	Drafting legislation and overseeing implementation  Implementation of the legislation: The Ministry responsible for foreign affairs supervises the implementation of this Law. Also, prepares the annual report related to the implementation of this law and sends the same to the Assembly of the Republic of Kosova. Also, it compiles statistics and when it deems it reasonable, it draws up reports and based on them, it makes recommendations to

		<p>Ministry of Internal Affairs, State Prosecution Office, Kosovo Intelligence Agency, FIU-K, Customs, TAK, Department for</p> <p>Control of Strategic Goods</p> <p>Minister responsible for Finance,</p>	<p>the competent bodies regarding the measures that must be taken and the legislation that must be approved to implement this law.</p> <p>FIU-K is the competent authority for the inspection and supervision of the compliance of the reporting entities defined under this law and under the Law on the Prevention of Money Laundering and Combating the Financing of Terrorism, in terms of compliance with the requirements of this law and by-laws of issued pursuant to this Law.</p> <p>Other relevant stakeholders, the ministry responsible for internal affairs, the ministry responsible for foreign affairs, the ministry responsible for trade and industry, the State Prosecution Office, the Kosovo Intelligence Agency, FIU-K, Kosovo Customs, Tax Administration and other institutions, which in within their scope have become aware or have reason to believe that a person is a terrorist, is or has been involved in terrorist activities, terrorist financing, involved in the activities of a terrorist group or in the commission of an act terrorist or is related to the proliferation of weapons of mass destruction, are obliged to submit the proposal for determination to the minister responsible for finance, and propose taking measures pursuant to the provisions of this Law.</p> <p>Implementation of the legislation:</p> <ul style="list-style-type: none"> <li>- The review of the proposal for listing in the local list is done by the minister responsible for finance who can call the Board as a special advisory committee to meet without delay after the acceptance of the proposal.</li> </ul>
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		Supervisory Board of FIU-K, Government	The Minister responsible for finance, without delay, proposes to the Government to determine the persons on the local list and to take the measures provided by the Law on the Implementation of Targeted International Financial Sanctions.
Law No. 08/L-026 on the amendment and supplement of Law No. 04/L-213 on International Legal Cooperation in Criminal Matters	<a href="https://gzk.rks-gov.net/ActDetail.aspx?ActID=8871">https://gzk.rks-gov.net/ActDetail.aspx?ActID=8871</a>	Ministry of Justice	<b>Drafting legislation and overseeing implementation</b>  Implementation of legislation: This Law regulates the conditions and procedures for international legal cooperation in criminal matters between the Republic of Kosovo and other states, unless otherwise determined by international agreement.
Draft Law on the Register of Beneficial Owners	<a href="https://konsultimet.rks-gov.net/viewConsultation.php?ConsultationID=41828">https://konsultimet.rks-gov.net/viewConsultation.php?ConsultationID=41828</a>	Ministry of Industry, Trade and Entrepreneurship  Kosova Business Registration Agency	Drafting legislation and overseeing implementation  Implementation of the legislation: The purpose of this Draft Law is to create, operate, administer the register of beneficial owners, determine the obligations of natural persons and obliged entities who register beneficial ownership information in the register and increase the transparency of beneficial ownership, as well as determine of punitive measures in case of non-compliance with the provisions of this Law.
The National Strategy of the Republic of Kosovo for the Prevention and Combating of the Informal Economy,	<a href="https://mf.rks-gov.net/desk/inc/media/DBA6BC4-B875-4A30-9FDB-">https://mf.rks-gov.net/desk/inc/media/DBA6BC4-B875-4A30-9FDB-</a>	Ministry of Finance, Labor and Transfers	<b>Drafting of the strategy and implementation oversight</b>  Relevant institutions: Ministry of Finance, chairperson; Ministry of Labor and Social Welfare; Office of the Prime Minister; Ministry for European Integration; Kosovo Police; Kosovo Customs; Tax Administration of Kosovo; Central Bank

<p>Money Laundering, Financing of Terrorism and Financial Crimes 2019-2023</p> <p>National Money Laundering and Terrorist Financing Risk Assessment 2020-2023</p>	<p><a href="#">C144736597B2.pdf</a></p> <p><a href="https://fiu.rks-gov.net/wp-content/uploads/2023/02/NRA_Financial_2020_Albanian_final_12-2020.pdf">https://fiu.rks-gov.net/wp-content/uploads/2023/02/NRA_Financial_2020_Albanian_final_12-2020.pdf</a></p>	<p>Financial Intelligence Unit</p>	<p>of Kosovo; Kosovo Financial Intelligence Unit; Kosovo Statistics Agency; Ministry of Trade and Industry; Ministry of Justice; National Coordinator for combating economic crime.</p> <p>Drafting of the Risk Assessment and the supervision of the implementation is coordinated by the Financial Intelligence Unit</p> <p>Other relevant actors: Kosovo Prosecution Council; Kosovo Anti-Corruption Agency; Tax Administration of Kosovo; Kosovo Police; Kosovo Customs; Kosovo Intelligence Agency; Ministry of Finance of Kosovo; Central Bank of Kosovo; Association of Banks of Kosovo; Chamber of Notaries of Kosovo; National Center for Border Management.</p>
<p>Recommended Action Plan for the Improvement of the AML/CFT System 2019 – 2023</p>	<p><a href="#">N/A</a></p>	<p>Financial Intelligence Unit</p>	<p>The Action Plan is coordinated by the Financial Intelligence Unit</p> <p>Other relevant stakeholders: Ministry of Finance, Ministry of Justice, Ministry of Foreign Affairs and Diaspora, Ministry of Internal Affairs, Ministry of Trade and Industry/KBRA, Kosovo Prosecutorial Council, State Prosecutor's Office and Special Prosecution Office of Kosovo, Kosovo Judicial Council, National Coordinator for Combating Economic Crime, Kosovo Police, Kosovo Tax Administration, Kosovo Customs, Central Bank of the Republic of Kosovo.</p>
<p>State strategy on prevention and combating of terrorism 2023 – 2028</p>	<p><a href="https://mpb.rks-gov.net/Uploads/Documents/Pdf/AL/2658/Alb_Pjesa%20narrative_Strategjia%20Shtet%C3%ABror">https://mpb.rks-gov.net/Uploads/Documents/Pdf/AL/2658/Alb_Pjesa%20narrative_Strategjia%20Shtet%C3%ABror</a></p>	<p>Ministry of Internal Affairs</p>	<p>Strategy design and implementation of the oversight</p> <p>The Secretariat of Strategies in the Ministry of Internal Affairs is responsible for monitoring the implementation of the strategy on a regular basis.</p> <p>Other relevant stakeholders, the National Coordinator for the Prevention and Combating of Terrorism, the Secretariat of Strategies, the Kosovo Police, the</p>

	<a href="#">e%20p%C3%ABr%20Parandalimi%20dhe%20Luf%20timin%20e%20Terrorizmit%202023%20-%202028.pdf</a>		Kosovo Agency for Forensics, the Emergency Management Agency, the Kosovo Intelligence Agency, the Kosovo Judicial Council, the Kosovo Prosecutorial Council, the Prosecutor's Office State, Kosovo Security Council Secretariat, Ministry of Justice, Kosovo Correctional Service, Kosovo Probation Service, Ministry of Defense, Ministry of Finance, Labor and Transfers, Kosovo Customs, Financial Intelligence Unit, Postal and Electronic Communications Regulatory Authority, Ministry of Education, Science, Technology and Innovation, Ministry of Foreign Affairs and Diaspora, Ministry of Culture, Youth and Sports, Kosovo Agency for Radiation Protection and Nuclear Safety, Office for Victim Protection and Assistance, Commission of Media Independent, Kosovo Print Media Council, Privacy and Information Agency, Association of Kosovo Municipalities, Agency of Information Society.
National Development Plan 2023-2025	<a href="https://kryeministri.rks-gov.net/wp-content/uploads/2023/03/06032023-RKS-Plani-Kombetar-per-Zhvillim-2023-2025.pdf">https://kryeministri.rks-gov.net/wp-content/uploads/2023/03/06032023-RKS-Plani-Kombetar-per-Zhvillim-2023-2025.pdf</a>	Government Coordination Secretariat	The Coordinating Secretariat of the Government has a coordinating role for this Plan.  Other relevant stakeholders: All ministries and agencies of the Republic of Kosovo
Economic Reform Program	<a href="https://mf.rks-gov.net/desk/inc/media/579CD1AE-3C87-4D9C-BA68-137232AED801.pdf">https://mf.rks-gov.net/desk/inc/media/579CD1AE-3C87-4D9C-BA68-137232AED801.pdf</a>	Ministry of Finance, Labor and Transfers	Program design and implementation of the oversight  Other relevant stakeholders: Strategic Planning Office (SPO) within the Prime Minister's Office and coordinators of policy areas from line ministries.

<p>Law on Business Organizations</p>	<p><a href="https://gzk.rks-gov.net/ActDocu-mentDetail.aspx?ActID=16426">https://gzk.rks-gov.net/ActDocu-mentDetail.aspx?ActID=16426</a></p>	<p>Kosovo Business Registration Agency</p>	<p><b>Drafting legislation and overseeing implementation</b></p> <p><b>Legislation implementation:</b> The Kosovo Business Registration Agency functions as a central body of state administration within the responsible Ministry for the registration of trade companies and trade names, and is authorized to perform other functions defined by this Law or functions assigned to KBRA by other laws.</p> <p>This law applies to all companies and other entities defined in this law. Rules for issuing permits, licenses or other forms of permit, regulating the activities in which the company engages after registration, accounting, financial reporting, taxes and work practices and employment of companies are not within the scope of this law, in addition to data exchange between electronic systems of institutions responsible for these areas in KBRA, including responsible institutions for tax administration and financial reporting.</p>
<p>Law on Freedom of Association in Non-Governmental Organizations</p>	<p><a href="https://gzk.rks-gov.net/ActDocu-mentDetail.aspx?ActID=19055">https://gzk.rks-gov.net/ActDocu-mentDetail.aspx?ActID=19055</a></p>	<p>Department for Non-Governmental Organizations within the respective Ministry for registration and de-registration of NGO/s</p>	<p><b>Drafting legislation and overseeing implementation</b></p> <p><b>Legislation implementation:</b> This law defines the rules for the establishment, registration, operation, suspension, termination, prohibition of operation and de-registration of non-governmental organizations in the Republic of Kosovo and the provisions of this Law apply to legal entities organized and registered as non-governmental organizations in the Republic of Kosova.</p>

### 1.3. Elaboration of the key problem

The country's compliance with international standards for PML/CFT plays an important role in enhancing the integrity of the country and world financial system. Since money laundering and terrorist financing can occur through many different avenues in different sectors of the economy, the standard itself has become just as wide-ranging, constantly promoting expansion and raising the standard.

Further, because of changes and raising of FATF standards, in recent years, the EU legislative framework to combat money laundering has been regularly updated. However, the existing framework is still considered to be suffering from a number of shortcomings. That is why last year the European Commission presented an action plan for a new EU anti-money laundering system. Reaching the action plan, on July 20, 2021 the European Commission presented its legislative proposal bringing EU-level oversight of certain issues related to preventing money laundering and combating terrorist financing.

These above-mentioned changes undoubtedly reflect in the legislative framework in Kosovo for PML/CFT. The last adoption of the Law on Prevention of Money Laundering and Combating Terrorist Financing in Kosovo was made in 2016; therefore, the compliance of local legislation with international and European standards requires further changes in order to follow new trends and phenomena in this field.

Law no. 05/L-096 on Preventing Money Laundering and Combating Terrorist Financing is largely based on international standards adopted by the Financial Action Task Force (FATF) and EU Directives, which have been adopted to fit Kosovo context. However, in any case a revision of the PML/CFT Law would be needed to update it in line with the revised FATF Recommendations and European Union Directive 2018/843 of the European Parliament and of the Council of 30 May 2018 known as the 5th EU Directive. Also, the ever-changing nature of money laundering and terrorist financing threats, driven by the boundless ingenuity of criminals coupled with the constant technological evolution of distribution channels, requires periodic review, and where necessary, reviewing the legal framework to combat such threats.

Regarding the current legislation in Kosovo in comparison with FATF standards and the European Union Directive 2015/849 on the prevention of the use of the financial system for the purposes of money laundering or terrorist financing known as the 4th EU Directive we have a high-level approximation, however still dealing with some non-compliances of a technical nature. In the Annex II of the Report on the Assessment of Kosovo's Compliance with International Standards, the key findings of Kosovo's compliance with the 4th EU Directive on AML are described in the deficiencies identified in the Risk Assessment and Risk-Based Approach, Caution Due to the Customer, Reporting Obligations, Data Protection, Keeping Records and Statistical Data, as well as Policies, Procedures and Oversight.

In some recommendations such as Recommendation 6 (targeted financial sanctions related to terrorism and terrorist financing), Recommendation 7 (targeted financial sanctions related to proliferation) and Recommendation 17 (reliance on third parties) Kosova is in non-compliance. But, regarding Recommendation 6 and 7, the authorities have initiated concrete actions by first



drafting the Concept Document on International Targeted Sanctions and then drafting the Draft Law on Implementation of Targeted International Financial Sanctions No. 08/L-146 which was announced by Decree No. DL-349/2022 by the President of the Republic of Kosovo and published in the Official Gazette No. 37/27 December 2022. This law has addressed the deficiencies identified in terms of recommendation 6 and 7. This law has addressed the deficiencies identified in terms of recommendation 6 and 7.

Regarding some other recommendations on technical compliance it is required to make some corrections where with some minor technical changes compliance can be achieved.

Regarding the European Union Directive 2018/843 of the European Parliament and of the Council, dated 30 May 2018 known as the 5th Directive, this Directive has brought some changes which have to do with improving transparency towards beneficial owners, improving financial intelligence units performance with the interconnection of beneficial property registers at EU level, addressing the risks of terrorist financing related to the anonymous use of virtual currencies and other "pre-paid" payment instruments, improving and strengthening cooperation between financial supervisory authorities, PML/CFT supervisors and the European Central Bank; as well as expanding the criteria for assessing high-risk third countries and providing a high level of safeguards for financial flows and improving controls on transactions by such countries.

Regarding the 5th Directive, considering that, among others, some issues are treated and regulated at the EU level, then Kosovo, not being a member of the EU practices, some of these provisions cannot be applied in the domestic legislation in Kosovo. Such as the transparency of beneficiary ownership, the requirement to link beneficiary registers at EU level, or the provisions for strengthening cooperation between financial supervisory authorities, PML/CFT supervisors with the European Central Bank.

However, there are many issues in 5th Directive, which require a series of actions in order to achieve their transposition. Regarding the transparency of beneficiary ownership together with the assistance of the Project against Economic Crime PECK II, a detailed analysis of the current situation in Kosovo was made in the framework of assistance in drafting the Administrative Instruction MF (FIU-K) 01/2021 on Beneficial Ownership for Reporting Entities. On this occasion, in June 2019, with the assistance of a Council of Europe Expert, a Technical Document was drafted "Recommendations for the Transparency of Beneficiary Property in Response to the Assessment Report for Kosovo". This technical document analyzes the implications of the key findings and the recommended actions in Immediate Outcome 5 of the Assessment Report and makes recommendations for practical steps to address the recommended findings and actions. In addition, this Technical Document provides recommendations to address a comprehensive regime for adequate, accurate and current information of beneficial ownership for all legal entities in Kosovo to be held in Kosovo according to the criteria 24.6 and 24.7 of Recommendation 24 in the Technical Compliance Appendix of the Assessment Report, addressing the necessary changes that need to be made in the legislation in Kosovo in order to achieve compliance.

Furthermore, in October 2020, a comparative analysis of the legislation of the Western Balkan countries for the Registration of Beneficial Property was made. Beneficial ownership registration in the Western Balkans - An analysis of the legal framework in Albania, Kosovo, Montenegro and North Macedonia” document, which provides data and enables to understand the strengths and weaknesses identified in the legislations of these countries in order to regulate this area in accordance with international and European standards and requirements.

Kosova, considering the aforementioned documents and the need to regulate the field related to the identification of beneficial ownership, has created the working group to draft the Concept Document for the Beneficial Ownership Registration, which has been approved by the Government with Decision No. 22/86 dated 04/07/2022. Also with the Decision of the Ministry of Industry, Entrepreneurship and Trade Ref. 02/No. 320, dated 06/10/2022, a Working Group was created for drafting of the Draft Law on Beneficial Ownership Registration.

## **TECHNICAL COMPLIANCE ANALYSIS OF KOSOVO LEGISLATION WITH INTERNATIONAL FATF STANDARDS**

This section elaborates and analyzes the level of compliance with the 40 FATF Recommendations according to their ranking, also based on the findings and recommendations of the Compliance Report with International PML/CFT Standards for Kosova.

### ***Recommendation 1 - Risk assessment and risk-based approach implementation***

Regarding compliance with this recommendation, several issues have been identified:

Changes need to be made related to criterion (1.7) to address the lack of a legislative or regulatory mechanism, whereby reporting entities are forced to take into account the high risks of ML/FT identified by Kosovo authorities or include them in their risk assessments.

Criteria 1.8 has also considered that the simplified measures for the implementation of the FATF Recommendations is provided in situations when the entity has identified the risk to be low, and this has been confirmed by FIU and sectorial supervisors, but there is no requirement that the lower risk is consistent with the risks identified at national level.

Criteria (1.10), (1.11) and (1.12) should provide for the obligation for reporting entities to undertake risk mitigation actions and maintain up-to-date assessments, not only when they determine that the risk of ML/FT is high but also in other circumstances. Also, require that the organization’s senior management approve these policies and procedures and that they monitor the implementation of risk-based controls and enhance them if necessary.

Since the adoption of the assessment report, the FATF has changed this recommendation, requiring countries also to assess the risk of proliferation financing (clarifying that this assessment refers strictly and only to the potential breach, non-implementation or evasion of the targeted financial

sanctions obligations referred to in Recommendation). The revised recommendations requires also countries to take commensurate action aimed at ensuring that these risks are mitigated effectively, including designating an authority or mechanism to coordinate actions to assess risks, and allocate resources efficiently for this purpose. Where countries identify higher risks, they should ensure that they adequately address such risks. Where countries identify lower risks, they should ensure that the measures applied are commensurate with the level of proliferation financing risk, while still ensuring full implementation of the targeted financial sanctions as required in Recommendation 7.

Finally this recommendations requires also financial institutions and designated non-financial businesses and professions (DNFBP/s) to identify, assess and take effective action to mitigate their money laundering, terrorist financing and proliferation financing risks.

Since the assessment of Law on PML/CFT 2018 of the Council of Europe, EU 5<sup>th</sup> Directive has expanded the types of reporting entities subject to the requirements of the AML/CFT law to include also:

- any other person that undertakes to provide, directly or by means of other persons to which that other person is related, material aid, assistance or advice on tax matters as principal business or professional activity;
- estate agents including when acting as intermediaries in the letting of immovable property, but only in relation to transactions for which the monthly rent amounts to EUR 10 000 or more;
- providers engaged in exchange services between virtual currencies and fiat currencies;
- custodian wallet providers;
- persons trading or acting as intermediaries in the trade of works of art, including when this is carried out by art galleries and auction houses, where the value of the transaction or a series of linked transactions amounts to EUR 10 000 or more;
- persons storing, trading or acting as intermediaries in the trade of works of art when this is carried out by free ports, where the value of the transaction or a series of linked transactions amounts to EUR 10 000 or more;

Also the FATF has subjected virtual asset service providers (VASP/s) to the AML/CFT requirements.

### ***Recommendation 2 - National cooperation and coordination***

Criteria 2.4 - Regarding this point as for the implementation of targeted financial sanctions related to the financing of terrorism and the proliferation of weapons of mass destruction is required by the Ministry of Foreign Affairs which is responsible for coordinating the implementation of sanctions related to FP (in accordance with Law No. 03/L-183 on the Implementation of International Sanctions) to intensify cooperation and coordination of activities including the Commission for Control of Trade in Strategic Goods, the Ministry of Justice, the Ministry of Finance and the National Coordinator for Combating Economic Crime, as well as related

mechanisms in the field of counter-terrorism and integrated border management. In this area, the adoption of the Draft Law on the Implementation of Targeted International Financial Sanctions would fill the gaps in this lack of cooperation and national coordination.

In order to address this recommendation, local authorities have approved Law No. 08/L-146 on the Implementation of International Targeted Financial Sanctions which has brought the necessary changes to address the recommendation in regard to the lack of national cooperation and coordination regarding the implementation of targeted financial sanctions about the financing of terrorism and the proliferation of weapons of mass destruction. In addition, the Ministry of Foreign Affairs and Diaspora with decision no. Ref 360/2022 dated 24/10/2022 established the Inter-institutional Working Group for the Coordination of the Implementation of International Sanctions.

### ***Recommendation 3 - Money laundering offense***

Regarding this recommendation, it should be noted the identified shortcomings related to the criminal offense of market manipulation, which is not covered as a major criminal offense, related to money laundering in the Criminal Code of Kosovo, therefore this is reflected in the Law on PML/CFT. Also, regarding the criminal liability of legal entities there is a need for harmonization between the Law on PML/CFT and CC and the Law on the Liability of Legal Entities for Criminal Offenses in relation to the standard of knowledge applicable in the case of ML offenses.

The criminal offenses of money laundering and terrorist financing described in Articles 56 and 57 of the Law on PML/CFT **fall within the exclusive competence** of the Special Prosecution of the Republic of Kosova, established by the Law on Special Prosecution Office of the Republic of Kosova No. 03/L-052, which means that they oversee all ML investigations undertaken by Law Enforcement Authorities. The oversight and prosecution of ML cases can in theory be delegated to prosecutors who are not members of the SPRK, but even in such cases, the indictment should be filed by SPRK itself.

In this regard, the PECK-II Assessment Report found that Kosovo has achieved only a Moderate level of effectiveness for AM.7, which means that the characteristics of an effective system for investigation, prosecution and sentencing of MLs have been achieved only to some extent, and that improvements are needed. The moderate performance of the Kosovo authorities in investigating and prosecuting money laundering effectively is largely **attributed** to issues that are directly related to the performance of the SPRK.

In May 2021, within the framework of PECK III, the technical document titled "Review of the exclusive competence of the Special Prosecution Office on the criminal prosecution of money laundering" was prepared, which presents an analysis of the scope and exercise in practice of the exclusive competences that the Special Prosecution Office in Kosova has for the investigation and prosecution of Money Laundering (ML) offenses in Kosova.

In the introductory part, the document summarizes where and how the criminal offense of money laundering is criminalized in Kosovo legislation and which Law Enforcement Agencies and

prosecutorial authorities are involved in the investigation and prosecution of this criminal offense. Following this, the relevant FATF standards in this area are elaborated, which in fact means Recommendations 3, 30 and 31 as well as Immediate Outcome 7 together with the general conclusions drawn and the findings made by PECK-II assessors regarding these standards. A separate chapter outlines the findings of assessors in 2018 regarding the effective investigation and prosecution of ML cases, with particular attention to the analysis of criminal statistics and the identification of a significant number of cases collected in ML cases in the SPRK.

The Technical Document then analyzes the various factors that may have led to this SPRK performance in this field, including staffing issues, enhanced workload and other factors, such as much higher than usual standards for evidence that applied by SPRK, as well as a list of recommended actions is presented, which mainly consists of amending specific parts of the Law on PML/CFT and the Law on SPRK in order to simplify and approximate the existing legal framework and thus achieve the goals originally set by the PECK II AR.

As a result of this situation, on October 26, 2023, the Assembly of Kosovo approved Law No. 08/L-168 promulgated by Decree No. DL-181/2023, dated 15.11.2023 by the President of the Republic of Kosovo. This law was published in the Official Gazette on November 23, 2023 and entered into force fifteen (15) days from the day of publication in the Official Gazette of the Republic of Kosovo.

As a result of the entry into force of this Law, there are changes in the current legal framework regarding the competence to investigate the criminal offense of money laundering.

Pursuant to the Law No. 08/L-168, the Special Prosecution Office has special case jurisdiction over "criminal offenses against the constitutional order and security of the Republic of Kosovo", which is related to chapter XIV of the Criminal Code, which includes criminal offenses related to terrorism.

In regard to the criminal offense of money laundering, the Special Prosecution Office has jurisdiction over the criminal offense of money laundering committed together with [other] "criminal offenses that are within the competence of the Special Prosecution, regardless of the amount or benefit". Furthermore, the Special Prosecution also has jurisdiction over the criminal offense of money laundering, committed "as a single criminal offense, if the value of the amount or benefit is in the amount of five hundred thousand (500,000) Euros or more.

#### ***Recommendation 4 - Confiscation and Interim Measures***

According to assessors, while the legal framework on confiscation and provisional measures complies with most of the criteria, there are a number of important criteria that are not met, including the requirement to identify and trace assets and the requirement to be able to take steps to prevent or void actions that prejudice the freezing of assets or seizure or recovery of property subject to confiscation. It is also unclear to what extent it is possible to confiscate assets connected to the financing of terrorists or terrorist organizations without a specific link to a terrorist act. Furthermore, there are a number of overlapping procedures for provisional measures, which create confusion in their practical application. Amendment to relevant legislation are required to address these shortcomings.

In order to address these shortcomings, the local authorities have undertaken a series of initiatives for legislative amendments which have resulted in the adoption of Code No. 06/L-074 Criminal Code of the Republic of Kosova, Criminal Procedure Code 08/L-032, as well as Law No. 06/L-087 on Extended Powers for Asset Confiscation.

Regarding the criminal offense of money laundering as the only one in Kosova, after the evaluation period by experts, there have been two successful cases, where SPRK has taken progressive steps in this direction. This is proven in the PPS case. No. 37/17, dated 28.12.2017, where an indictment was filed for the criminal offense of money laundering, on its own, that is, without the basic criminal offense. This case deserves special attention, as it deals with an indictment filed only with the criminal offense of money laundering, in itself, that is, without the basic criminal offense. And, this is important and has gained even more attention because there has been resistance in the past, whether such an indictment can be filed without the underlying criminal offense.

The other case concerns the indictment filed by SPRK, under the reference PPS. No. 33/2020, dated 31.01.2022, where an indictment was filed against a defendant, P. K, due to the criminal offense of money laundering from article 302 of the CCRK in conjunction to Article 56 paragraph 1 subparagraph 1.5 and paragraph 3 subparagraph 3.1 of Law No. 05/L-096 on Prevention of Money Laundering and Combating Terrorism.

The undertaking of systematic measures for the autonomous investigation and prosecution of the criminal offense of money laundering, without the need for the criminal prosecution of related criminal offences, on the basis of recent judicial practice should be promoted, as well as if deemed necessary clarification of definitions such as criminal activity or other, despite the fact that the current law in the provisions consolidates and clarifies these issues, will be able to be reviewed if there is a need for further treatment.

### ***Recommendation 5 - Terrorist Financing Offense***

The assessment report has noted issues related to the duplicate criminalization of TF; issues on the criminalization of the various terrorist offences prescribed in the nine treaties annexed to the UN TF Convention due to not fully covering all of those offences as terrorism, mainly in relation to the purposive element and the lack of full criminalization for the financing of individuals joining, participating in conflict areas, inciting others, and providing logistical support (which are omitted from the scope of the TF offence. The assessment report notes that the proposed new draft of the Criminal Code retains the scope of the definition of terrorism, terrorist act, or terrorist offence of the current CC. At the same time, the proposed provision for the facilitation of terrorism, while enlarging the scope of the offence (discussed below under respective criteria), still does not fully solve the aforementioned deficiencies. It is therefore necessary to ensure that new changes in the Criminal Code address these deficiencies.

The Criminal Code 06/L-074 of the Republic of Kosova in the provisions defined in Articles 114 -139 has addressed the issues recommended for improvement, and now the definitions with the

new legal provisions include terrorism, terrorist act or terrorist offence, terrorist, terrorist group, group structured, funds, and financial resources. Furthermore are addressed even the commitment of a terrorist act, assistance in the commission of terrorism, facilitation and financing of the commission of terrorism, recruitment for terrorism, training for terrorism, encouragement to commit terrorist acts, concealment or non-notification of terrorists or terrorist groups, organization and participation are also dealt with, in a terrorist group, travel for the purposes of terrorism, and the preparation of terrorist acts or criminal acts against the constitutional order and security of the Republic of Kosovo.

***Recommendation 6 - Targeted financial sanctions related to terrorism and terrorist financing***

According to the international standards of the Financial Action Task Force (FATF) on Combating Money Laundering and Terrorist Financing, specifically, Recommendation 6 sets out specific financial sanctions related to terrorism and terrorist financing, in which case countries should implement specific financial sanctions, in line with United Nations Security Council resolutions relating to the prevention and suppression of terrorism, and its financing. Resolutions urge countries to freeze other funds or assets immediately and to ensure that other funds or assets are not made available, directly or indirectly, directly or for the benefit of any person or entity:

- designated by, or under the authority of, the United Nations Security Council under Chapter VII of the Charter of the United Nations, including in accordance with Resolution 1267 (1999) and subsequent resolutions, or
- promulgated by that country in accordance with Resolution 1373 (2001).

In Kosovo, this issue is to some extent addressed by Law no. 03/L-183 on the Implementation of International Sanctions (ISS), but there are some shortcomings in this regard, especially with regard to financial sanctions related to terrorism, terrorist financing and the proliferation of weapons of mass destruction, which need to be addressed in connection with the freezing of funds or other assets and the taking of other measures in respect of persons declared by the United Nations Security Council as defined in the relevant resolutions.

The Law on International Sanctions does not designate a competent authority that is able to determine immediately whether there are reasonable grounds, or a reasonable basis for suspecting or believing that a person or entity is a terrorist, terrorist organization or person associated with terrorists; funds or other assets related to terrorism to be subjected immediately to the freezing process upon finding that such reasonable grounds exist; and the freezing of funds and other assets to be carried out without prior notice of the parties involved.

According to the technical document for Legal Opinion on the redrafting of Law no. 03/L-196 on Prevention of Money Laundering and Terrorist Financing in Kosovo prepared by Council of

Europe experts<sup>4</sup> in the framework of the PECK Project, the Kosovo regime for the implementation of Recommendation 6 of the 2012 TFVF and relevant to the United Nations Security Council Resolutions (UNSCR) urging countries to freeze terrorist assets without delay and to prevent other funds and resources (including financial services) from being made available to certain persons and entities is incomplete and non-compliant with these standards. In addition, the assessment report from PECK II of 2018 confirms that Kosovo is in non-compliance regarding recommendations 6 and 7 of the FATF. The ISS Law establishes the basis for the application of “international sanctions”, defined as "restrictions and obligations imposed by resolutions, conventions, agreements, declarations or any act of the United Nations or any other international organization "of an economic, financial, political, communication or public nature (paragraph (1.2) of Article 2). Although there is no specific reference to the “freezing” or “prohibition of the provision of funds or other assets for the benefit of certain persons or entities<sup>5</sup>”, these may be included in the definition of " Financial Sanctions "(paragraph (1.4) of Article 2 of the Law on ISS): "restrictions on the rights of entities to which international sanctions apply to manage, use or dispose of cash, securities, goods, other assets and property rights; restrictions on payments to entities against which sanctions apply international; further restrictions on financial activities". However, according to this Legal Opinion, there are some problems with the Law on ISS, including:

- The Law on ISS relies on a Government decision on its implementation, which has not been issued;
- It lacks a mechanism to identify target persons and entities for listing based on the designation criteria set out in United Nations Security Council resolutions (UNSCR - 1267/2001 and its successor resolutions) and to make requests for lists of persons and entities to the competent committee for sanctions within the UN;
- It does not provide a mechanism to identify the target persons and entities for listing, based on the criteria of determination defined in Resolution 1373/2001, as well as for their determination in accordance with this Resolution.
- It does not provide authority or mechanisms and procedures to review and give power to actions initiated under the freezing mechanisms of other countries in accordance with Resolution 1373;
- It is not clear that "financial sanctions" will cover all cases provided by the TFVF.

In the absence of these legal provisions within the Law on ISS the law enforcement institutions do not have at their disposal the mechanism of freezing funds or other assets without delay as determined by the resolutions of the United Nations Security Council, which are requirements that should be treated differently from the conventional way which is defined by the Criminal Code and the Code of Criminal Procedure. Therefore, taking into account that the method of freezing

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<sup>4</sup> Giuseppe Lombardo dhe Herbert Zammit LaFerla ECCU-PECK-eng-3/2015

<sup>5</sup> Glossary of FATF Recommendations, definition of "targeted financial sanctions".



funds or other assets without delay as defined by the resolutions of the United Nations Security Council is not defined by the Law on ISS, this presents difficulties in its implementation.

Regarding this issue and addressing recommendation 6 and 7 of the TFVF, the Ministry responsible for Foreign Affairs has drawn up the Concept Document for the approximation of the local legal framework for international sanctions in order to harmonize with international standards and after the approval of this concept, the Document has established the working group for the drafting of the law for the implementation of targeted international financial sanctions. In order to address this recommendation, local authorities have approved Law No. 08/L-146 on the Implementation of International Targeted Financial Sanctions which has brought the necessary changes to address the recommendation and implement targeted financial sanctions related to terrorism and terrorist financing. In addition, the Ministry of Foreign Affairs and Diaspora with decision ref. no; 360/2022 dated 24/10/2022 formed the Inter-institutional Working Group for the Coordination of the Implementation of International Sanctions.

This law regulates the way of listing, implementation and delisting of persons determined in connection with international financial sanctions targeted in the Republic of Kosovo and related to the implementation of international financial sanctions targeted in connection with the fight against terrorism and the proliferation of weapons of destruction in measure, the development and strengthening of democracy, the rule of law and the achievement of other objectives in accordance with international law, according to the Resolutions of the Security Council of the United Nations Organization adopted on the basis of Chapter VII of the UN, acts of the European Union, the decisions of other international organizations in which the Republic of Kosovo is a member or that implements them, as well as on other bases in accordance with international law.

The law contains general provisions relating to scope, scope and definitions, deals with lists of designated persons and procedures for designation.

The consolidated list of sanctions of the Security Council of the United Nations Organization (UNSC) is published on the website of the FIU-K, without delay, which then immediately notifies the competent authorities defined in the law of any changes made to the list, as well as the reporting subjects and other institutions deemed necessary to be informed.

It also deals with the issue regarding the proposals of the state authorities for the designation of persons on the local list, the proposal for delisting of the persons designated on the lists of the Security Council of the United Nations Organization, and the persons designated on the local lists.

Direct reporting requirements, where reporting persons are required to have and implement policies and procedures in order to determine whether their clients are designated persons. If the reporting entity verifies that it has a business relationship with a specified person, it must freeze the assets of the specified person immediately and without prior notice or legal instruction from a competent authority or the court, immediately reports the details of the action to the FIU - K. The assets to be frozen under paragraph 2 of this article do not only include assets that are directly owned or controlled by the designated person or entity, but also those funds or other means that are wholly or jointly or controlled directly or indirectly by the specified person or entity.

FIU-K regulates the manner of reporting referred to in the requirements for direct reporting.

It also deals with prohibitions on making available and freezing assets, revoking the decision to freeze assets. The law also deals with the judicial procedure for listing decisions, determines the penalties for violations and the supervisory competence for the MFA, other authorities and FIU-K.

### ***Recommendation 7 - Targeted financial sanctions related to proliferation***

TFVF Recommendation 7 deals with specific financial sanctions related to the proliferation of weapons of mass destruction. According to this recommendation, countries should implement specific financial sanctions in accordance with United Nations Security Council Resolutions regarding the prevention, suppression, and deterrence of the proliferation of weapons of mass destruction and their financing. These resolutions require countries to immediately freeze funds or other assets and to ensure that no funds or other assets are available, directly or indirectly, to or for the benefit of any person or entity declared by these Resolutions, or under the authority of the United Nations Security Council, based on Chapter VII of the United Nations Charter.

Regarding this issue and addressing recommendation 7 of the TFVF, the Ministry responsible for Foreign Affairs has drafted the Concept Document for the approximation of the local legal framework for international sanctions with the aim of harmonizing with international standards and after the approval of this concept Document has established the working group for drafting of the law for the implementation of targeted international financial sanctions, where this law is expected to be submitted for approval to the Government and then for approval to the Assembly, in which case this field would be harmonized with the international standards of the TFVF and the EU

In order to address this recommendation, local authorities have approved Law No. 08/L-146 on the Implementation of International Targeted Financial Sanctions which has brought the necessary changes to address the recommendation and implement targeted financial sanctions related to proliferation. In addition, the Ministry of Foreign Affairs and Diaspora with decision ref. no; 360/2022 dated 24/10/2022 has established the Inter-institutional Working Group for the Coordination of the Implementation of International Sanctions.

This law regulates the way of listing, implementation and delisting of persons determined in relation with international financial sanctions targeted in the Republic of Kosovo and related to the implementation of international financial sanctions targeted in relation to the fight against terrorism and the proliferation of weapons of mass destruction, the development and strengthening of democracy, the rule of law and the achievement of other objectives in accordance with international law, according to the Resolutions of the Security Council of the United Nations Organization adopted on the basis of Chapter VII of the UN, acts of the European Union, the decisions of other international organizations in which the Republic of Kosovo is a member or that implements them, as well as on other bases in accordance with international law.

For more clarity about the provisions of Law No. 08/L-146 on the Implementation of International Targeted Financial Sanctions, the clarification is provided in Recommendation 6 above in this document and the same applies to this Recommendation.

### ***Recommendation 8 – Non-Profit Organizations (NGOs)***

FATF Recommendation 8 urges States to review the adequacy of laws and regulations to ensure that NGOs cannot be misused by terrorist organizations appearing as legitimate entities; to use legal entities as channels for financing terrorism, including with the intention of evading asset freezing measures; and to conceal or divert attention from the diversion of funds designated for legitimate purposes to terrorist organizations.

Regarding the legal obligations of NGOs in Kosovo regarding the prevention of money laundering and combating the financing of terrorism, the working group will act in harmony with the requirements of recommendation 8 of the FATF and the national risk assessment report and sectoral assessments for this area and will determine to what extent the deficiencies identified by the assessment reports are still relevant in terms of the changes made by the FATF to Recommendation 8.

As for the risks of terrorist financing in the NGO sector, we have an assessment completed at the regional level and an assessment initiated at the local level.

At the regional level, through a Joint Program of the Council of Europe "Horizontal Facility for the Western Balkans and Türkiye", a Technical Document<sup>6</sup> has been drafted presenting the Risk Assessment at the Regional Level in the Sector of Non-Profit Organizations in the Western Balkans and Turkey 2020/2021.

According to this Document, the final results of the regional risk factors show that the risks of TF in the NGO sector of the region are concentrated only in a few key areas, despite the fact that many risk factors with a regional dimension have been identified. Religious/ethnic/cultural NGOs and funding of foreign NGOs from high-risk jurisdictions or unverifiable sources represent the main risk areas for the region, with analysis strongly suggesting that both pose a very high risk.

Furthermore, it has been noted that humanitarian, charitable and aid NGOs pose a significant but slightly less significant threat to the financing of terrorism for the region. While the analysis gives certainty that there is a lower risk of terrorist financing where NGOs in the region are financed by diaspora communities.

Furthermore, at the local level, the assessment of the risks of this sector is being developed for FT and the Financial Intelligence Unit as the bearer of this process with the FIUAD Decision: 73/2023 dated 02/14/2023 has established the Working Group for Sectoral Risk Assessment of the financing of terrorism and related acts in the Sector of Non-Governmental/Non-Profit

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<sup>6</sup> <https://rm.coe.int/npo-rra-final-amended-250822-publishing/1680a7fb07>

Organizations, which group will analyze, evaluate and draft the report on the risks in this sector of NGOs.

***Recommendation 9 – Secrecy laws for financial institutions***

At this point, Kosovo has been assessed as being mostly in line with recommendation 9, therefore, within the legal provisions, no additional action is recommended. Regarding this point, the recommendation can be addressed to strengthen the provision regarding the information needed for the strategic analysis of PML/CFT carried out by FIU-K so that it can be provided by other authorities as recommended by the 2018 assessment report.

***Recommendation 10 – Proper Customer Care***

The assessment report notes a number of issues related to this Recommendation, which are presented below divided by the topic to which they relate and by the sign of the legal instrument that would need to be changed (both marked for ease of reference). The FATF methodology has made it clear that most of these requirements can be implemented through secondary legislation or other applicable means. While these tools, in principle, which correct these deficiencies with secondary legislation, could be sufficient, one has to take in mind the specific framework of Kosovo, where the requirements of the Proper Customer Care are specifically regulated in the on AML/CFT law, so the possibility to introduce new requirements through secondary legislation may be limited.

*When CDD is required*

The AML/CFT Law does not require banks and other financial institutions to undertake all applicable customer due diligence measures (as opposed to customer identification and identity verification only) in case of: a) transactions of in the case above the established threshold of EUR 10,000 which are not carried out in cash and b) transactions which are carried out by transfer and are carried out through institutions other than banks.

*Proposed amendment*

*Amendment of the law on AML/CFT (paragraph 2 of article 19)*

*CDD measures required for all customers:*

- i) The requirement to use reliable and independent source documents, data or information is not clearly defined.
- ii) The request to verify the authorization of any person claiming to act on behalf of the client does not cover situations where the reporting entities:
  - a) engages in relations with persons who act on behalf of the customer outside the scope of carrying out transactions; and

b) deal with legal entities other than budget organizations, NGOs or political entities as well as with legal agreements;

iii) the provision for establishing beneficial ownership fails in relation to the requirement for reporting entities to:

a) use relevant information or data from a reliable source when reasonable steps are taken to verify the identity of the beneficial owner and

b) take such measures in situations other than those considered high risk;

iv) the provision for establishing beneficial ownership fails in relation to the requirement for reporting entities to:

The proposed actions/amendments are presented below:

Proposed amendment

- Drafting a guide for Proper Customer Care;
- Amendment-completion of the Law on AML/CFT: Paragraph 7 of Article 19 and others.

*Specific CDD measures required for legal entities and legal agreements:*

- i) Reporting entities are not required to understand the ownership and control structure of customers in situations other than those considered high risk;
- ii) There is no request to obtain information regarding a person's principal place of business or legal arrangement if it is different from the registered office address;
- iii) There is no requirement to establish the identity of the relevant natural person, who holds the position of senior management officer, in cases where no natural person has been identified according to the definition of the beneficial owner;
- iv) Beneficiaries of legal agreements identified by certain characteristics are not defined as beneficial owners.

*Proposed amendment:*

- *Amendment-supplement of the law on AML/CFT: Paragraph 2 of Article 19, paragraphs 3.2 and 4 of Article 19, etc.*

Regarding the specific measures of the CDD required for legal entities and legal agreements FIU-K to address the issues raised above FIU-K has drafted the Administrative Instruction MF (FIU-K) 01/2021 for the Beneficial Owner for Reporting Entities. However, the amendment-supplement of the law on AML/CFT in paragraph 2 of article 19, paragraphs 3.2 and 4 of article 19 remain

relevant and necessary in order to address this recommendation. While the issue of beneficial ownership continues to be addressed also in the Draft Law on Beneficial Ownership.

*KDK for beneficiaries of life insurance policies*

- i) provisions for beneficiaries of life insurance policies do not require reporting entities to:
  - a) undertake the relevant actions, as soon as the beneficiary has been identified or determined; and
  - b) when the beneficiary is identified as a named legal agreement, to register the name of the agreement,
- ii) reporting entities are not required to include the beneficiary of a life insurance policy as a relevant risk factor in determining whether the measures of the enhanced KDK are applicable.

*Proposed amendment:*

*Amendment of the law on AML/CFT*

*Verification time*

- i) In situations other than those considered high-risk, the requirement to verify the identity of the beneficial owner before or during the establishment of the business relationship or the execution of transactions for occasional customers has not been established;
- ii) Reporting entities are not required to adopt risk management procedures regarding the conditions under which a client may use the business relationship prior to verification.

*Proposed amendment*

*Amendment/supplement of the law on AML/CFT*

*Existing customers*

There is no requirement to perform CDD on existing customers considering if and when CDD measures were taken earlier and the compatibility of the data received.

*Proposed amendment*

*Amendment of the Law on AML/CFT or revision of the Central Bank Regulation on AML/CFT.*

*Risk-based approach:*

- i) The requirement to perform CDD where the risks of ML/TF are greater are not clearly defined;

ii) The elements and prerequisites to allow a simplified CDD are not clearly defined.

*Proposed amendment*

*Amendment-supplement of the law on AML/CFT or revision of the Central Bank Regulation on AML/CFT related to the risk-based approach.*

Failure to satisfactorily complete tCDD

There are no clear requirements regarding the reporting entities not to open the account, commercial business relationship or carry out the transaction, or to terminate the business relationship whenever they are unable to comply with all the relevant measures of the CDD

*Proposed amendment*

*Amendment-supplement of the law on AML/CFT related to the unsatisfactory completion of the CDD*

*CDD and tipping-off*

Provisions preventing disclosure of customers are not available.

The applicable legislation does not provide that, in cases where the reporting entities establish a suspicion of ML/FT and reasonably believe that carrying out the CDD procedure will reveal the customer, they should be allowed not to proceed with the CDD procedure and instead you will be asked to fill in the RTD.

*Proposed amendment*

Amendment-supplement of the law on AML/CFT for CDD and the release of information

It is important to note that the 5th Directive has expanded the prohibition of keeping anonymous accounts and passbooks (existed in Kosovo legislation) as well as anonymous safes, which may require legislative change.

The use of new technologies for identification and verification process in order to obtain adequate and accurate data for the identification of clients should be promoted, based also on the current legal framework and field international standards that have advanced.

**Recommendation 11 - Data storage**

As for recommendation 11, Kosovo is mostly in compliance, what is recommended regarding the achievement of full compliance is related to criterion (11.2) and is related to the expansion of the

scope of Article 20 of the Law on AML/CFT, where the reporting entities apart from being required to keep all the data obtained through the measures of the CDD, they shall keep any analysis undertaken in relation to the transactions of the case, except those defined by Article 25 of the Law on AML/CFT (as long as the period of storage is defined "for at least the last 5 years after the end of the business relationship").

### **Recommendation 12 – Politically exposed persons**

In order to achieve compliance with this recommendation in the Law on AML/CFT, the obligation should be defined according to criterion (12.1) where reporting entities should be required to put in place risk management systems in order to determine whether a customer or a beneficial owner is a PEP. This can be addressed through an amendment to the AML/CFT Law or by secondary legislation. Clarify the scope and coverage of the measures to be implemented in relation to family members and close associates of PEPs under criterion (12.3); and provide that the determination of whether the beneficiary and/or, where necessary, the beneficial owner of the beneficiary is a PEP must occur, at the latest, at the time of payment (criterion 12.4) through secondary legislation or binding instructions

### **Recommendation 13 – Correspondent bank**

Kosovo is mainly in accordance with Recommendation 13, for this recommendation (criterion 13.1 and criterion 13.2) it is required that the law on PML/CFT also covers relations between other financial institutions, not only banks, as well as the definition of a shell bank certain elements of the FATF definition (criterion 13.3) namely the lack of physical presence in the country in which the bank is licensed (as opposed to being merely incorporated) and the lack of affiliation with a regulated financial group which is subject to effective consolidated supervision (as opposed to being subject to ineffective and/or unconsolidated supervision).

### **Recommendation 14 – Money or currency transfer services**

Regarding this recommendation, Kosovo is in compliance, as all the criteria that define the requirements regarding money or value transfer services have been met, so there is no need for any changes.

### **Recommendation 15 – New technologies**

Likewise, for recommendation 15, Kosovo was assessed as compliant. However, since the evaluation of PECK-II regarding AML/CFT, the FATF has changed Recommendation 15. In October 2018, the Financial Action Task Force (FATF) updated its Anti-Money Laundering and Countering the Financing of Terrorism (AML/CFT) Recommendations to extend their requirements to virtual assets (VA) and virtual asset service providers (VASP). This included changes to the existing requirements of Recommendation 15 (R.15). In June 2019, the FATF



adopted an interpretative note to Recommendation 15 (INR.15) to clarify how the requirements of R. 15 would apply to VAs and VASPs.

R.15, as amended, now requires VASPs to be regulated for AML/CFT purposes, to be licensed or registered and to be subject of effective systems for monitoring or supervision. Additional requirements regarding supervisory response to noncompliance (ie, application of sanctions), detection of unauthorized activity, and international cooperation measures related to VA and VASP must be met.

In 2020, the FATF published guidance on applying a risk-based approach to the AML/CFT regulation of VAs and VASPs. This guidance reviewed the FATF recommendations on AML/CFT as they would apply to VAs and VASPs. The guidance identifies the risks of financial crime and provides recommendations for supervision and oversight of MVs and VASPs. Consequently, this guidance was updated in October 2021 (FATF Guidance).

In May 2023, the World Economic Forum published a report on the needs and challenges in developing a global approach to the regulation of crypto-assets. The report considers the different regulatory approaches being adopted by different jurisdictions and the challenges faced in effectively overseeing VAs and VASPs.

At the European Union level, the FATF guidance on VAs and VASPs was supplemented by the adoption of the 5th Anti-Money Laundering Directive. This Directive requires Member States to supervise the use and promotion of VAs and VASPs.

In the European Union (EU), member state supervisors are expected to ensure that they have procedures and processes in place for the approval and supervision of VASPs. This includes recognizing and requiring the registration of existing VASPs, ensuring that new VASPs complete the required authorization process, and that unauthorized VASPs and VA-related activities are detected and prevented.

On 31 May 2023, the European Banking Authority launched its consultation on new directives for financial institutions and VASPs on the implementation of the requirements of the 5th Anti-Money Laundering Directive.

At the country level, Kosovo has begun its efforts to re-regulate VAs and VASPs with the preparation of the draft law in 2022. A Parliamentary Working Group (PWG) is responsible for overseeing and sponsoring the drafting of the draft law for later consideration by the Parliament. The GPP supports the further development of the draft law and the aim is to finalize the draft law so that it reflects a reasonable balance between supporting responsible innovation and effective prevention of financial crime.

Also in general, the use of technological solutions for advanced data analysis that help to more effectively identify suspicious typologies and transactions should be promoted, and where necessary and possible even implemented.

## **Recommendation 16 – Electronic transfers**

Regarding electronic transfers within the legislation in force, the Assessment Report for compliance with international standards has identified some shortcomings.

The provisions for electronic transfers (criterion 16.1) do not require that:

a) the initiator's account number accompanying the electronic transfer is specifically the account number used to process the transaction;

b) in the absence of an initiating account, the unique reference number:

1) is that of the specific transaction;

2) is the one that allows the traceability of the transaction; and

c) in the absence of a beneficiary account and when the initiator's account number is used to process the transaction, a unique transaction reference number that allows the traceability of the transaction accompanies the electronic transfer;

The same deficiencies are relevant regarding the regulation of batch file transfers (criterion 16.2);

The initiator's information on internal electronic transfers should be required to be made available to other relevant authorities, and the deficiencies identified in the analysis for criterion 16.1 are relevant for internal electronic transfers (criterion 16.5);

Ordering financial institutions should be required to store the collected benefiter information in accordance with Recommendation 11 (criterion 16.7) and stop the execution of the wire transfer if it does not comply with all relevant requirements specified in criteria 16.1 to 16.7 (criterion 16.8);

The deficiencies identified in the analysis for criterion 16.1 are important in relation to intermediary financial institutions in cross-border electronic transfers (criterion 16.9);

Intermediary financial institutions should be required to take reasonable measures, which are consistent with direct processing, to identify cross-border electronic transfers that do not contain the required originator information or the required payee information (criterion 16.11) and have risk-based policies and procedures to determine:

a) when they have to execute, reject or suspend an electronic transfer, which does not contain the required information about the initiator or the beneficiary; and

b) appropriate follow-up actions (criterion 16.12);

Beneficiary financial institutions should be required to take reasonable steps to identify cross-border electronic transfers that do not have the required information on the beneficiary (criterion

16.13); maintain verified information on the identity of the beneficiary in accordance with Recommendation 11 (criterion 16.14); and have risk-based policies and procedures to determine: a) when to execute, reject, or suspend an electronic transfer that does not contain the required beneficiary information; and b) appropriate follow-up actions (criterion 16.15);

Banks and other financial institutions that control both the ordering and the receiving side of an electronic transfer must:

- a) take into account all information from the beneficiary; and
- b) file an RTD in each country affected by the suspicious electronic transfer (criterion 16.17); and

The legislation in force does not require banks and other financial institutions to undertake freezing actions and to act in accordance with the bans from carrying out transactions for the persons and entities defined in the context of electronic transfers, according to the obligations defined in the RKSKB related to prevention and suppression of terrorism and financing of terrorism (criterion 16.18), therefore this recommendation does not stand now as it has been addressed with the approval of Law no. 08/L-146 on the Implementation of International Targeted Financial Sanctions which has brought necessary changes

At the level of the European Union, the 5th Anti-Money Laundering Directive regarding electronic money provides that:

- i. In fact, the maximum monthly payment transactions for "remote payment" for general purpose anonymous prepaid cards have been reduced from €250 to €150. Moreover, the maximum amount of money deposited on such cards will not exceed this threshold.
- ii. Providing anonymity for electronic money products will be possible only in two situations:
  - a. when customers use their prepayment instrument directly in the store in a value not exceeding EUR 150;
  - b. when customers perform an online transaction with a prepaid card in the value of no more than 50 EUR.

### **Recommendation 17 – Support to third parties**

Current legislation is silent on relying on third-party financial institutions and BPCJFs to carry out certain elements of CDD measures (customer identification, beneficial owner identification and understanding the nature of the business) or for business presentation. This means that such support, although not expressly permitted, is not specifically prohibited in Kosovo. In practice, such support has not occurred, since the law does not specifically regulate such support and has been implemented as if it is prohibited, however, regarding the addressing of this non-compliance, the issue of support to third parties must be specifically and expressly determined by law. From the countries in the region, a large part have prohibited this support, as an example is the legislation

of Albania, or do we have practices that have allowed it and with the legal changes have prohibited or limited support to third parties, as is the case with legislation of Bulgaria.

Paragraph 5 of Article 24 of the Law on AML/CFT, banks and financial institutions implement programs within the group covering their foreign branches and subsidiaries, in which the group holds majority ownership, against money laundering and terrorist financing, including policies and procedures for the exchange of information within the group for the purposes of this law, therefore, this ensures partial compliance with criterion 17.3, while other elements of this recommendation should be treated with care.

The Working Group considers that reliance on third parties should not be allowed in Kosovo.

### **Recommendation 18 – Internal controls and foreign branches and subsidiaries**

In order to eliminate technical incompatibilities, there should be legal provisions in Article 17 of the Law on AML/CFT where it is required that AML/CFT risks and the size of the business are also considered in the programs of reporting entities against AML/CFT . Furthermore in Article 21 of the law on AML/CFT, the compliance function for banks is required to be led by a senior manager and to be independent from all other functions of the reporting entity and for other reporting entities provided that it has sufficient administrative capacities while according to the standard for all financial institutions the compliance function should be required to be at a high managerial level. In paragraph 2.6 of Article 17 of the law on AML/CFT, which requires the creation of adequate regular internal control bodies for the implementation of the obligations defined in this law and the audit function to test the reporting and identification system, except for entities with limited number of staff, the scope of the paragraph should be expanded to include entities with a limited number and the audit function should not be limited only to the reporting and identification system, leaving aside the other components of the AML/CFT system.

The provisions under paragraph 5 of Article 24 of the AML-CFT Law must specify that group-level programs must be suitable (in addition to being applicable) for all branches and subsidiaries in which the group holds the most part of ownership. and that they include the measures set out in criterion 18.1 (namely rules for compliance management, employee selection, employee training and the independent audit function), and specifically require that these group-level programs include the safeguards appropriate confidentiality and use of shared information, including safeguards to prevent information disclosure.

Provisions which require that:

- i) When the minimum requirements for AML/CFT of the host country are less stringent than those in Kosovo, banks and other financial institutions to ensure that their foreign branches and subsidiaries, in which the group holds majority ownership, to implement AML/CFT measures in accordance with the requirements in Kosovo to the extent that the laws and regulations of the host country allow this; and

ii) When the host country does not allow the proper implementation of AML/CFT measures in accordance with the requirements in Kosovo, banks and other financial institutions to apply appropriate additional measures for the management of AML/CFT risks and inform supervisors in Kosovo (criterion 18.3).

### **Recommendation 19 – Places of highest risk**

Pursuant to paragraph 6 of Article 18 of the Law on AML/CFT, all reporting entities shall apply enhanced due diligence measures that are effective and proportionate to the risks identified for business relationships and transactions with natural and legal persons, including financial institutions from countries that may be determined by the FIU-K, based on international measures against such countries. Reporting entities are not expressly required by law to apply enhanced customer proper care for business relationships and transactions with persons from countries for which it is required by the FATF (criterion 19.1), this is regulated and defined by the FIUAD directive 70/2018 issued by the FIU-K on May 8, 2018, which recommends the implementation of the added CDD for natural and legal persons related to the jurisdictions listed by the FATF. However, the legal status of the directive as a non-mandatory act does not foresee compliance with the requirements of the criteria, therefore, this must be harmonized with the law in order to be a mandatory obligation. Also in order to fulfill the criterion (criterion 19.2) the legislation should foresee requirements to implement countermeasures when required by FATF which are proportional to the risks and measures in order to ensure that financial institutions are advised with regards to the concerns about weaknesses in the systems of AML/ CFT of other countries that are not sufficient (criterion 19.3).

### **Recommendation 20 – Reporting suspicious transactions**

Kosovo is mostly in compliance with this recommendation, so no specific changes are recommended, except for the lack in the criminalization of money laundering, which includes the lack of criminalization of market manipulation.

### **Recommendation 21 – Disclosure and confidentiality**

According to the Evaluation Report for Compliance with international standards, Kosovo is mainly in accordance with Recommendation 21, and what needs more focus is related to the provisions that prohibit the release of explanatory information for the presentation of RTDs or relevant information that, according to the interpretation of experts, leaves room for the interpretation that they do not apply to all the personnel of the reporting entities but only to the personnel who prepared or transmitted such reports according to the law on AML/CFT, as well as to have specific regulation to ensure that these provisions are not intended to hinder the exchange of information according to Recommendation 18 (criterion 21.2).

### **Recommendation 22 – Businesses and Designated Non-Financial Professions (BPPJF) - Customer Proper Care**

Regarding this recommendation, among other things, despite the fact that in Kosovo with Law No. 06/L-155 for the Prohibition of Games of Chance, all games of chance are prohibited and closed

in the entire territory of the Republic of Kosovo, one of the flaws identified in the law on AML/CFT is related to the lack of requirements for casinos to implement all KDK measures (as opposed to customer identification and identity verification) whenever customers engage in financial transactions equal to or above the defined threshold, and must ensure that they are able to link CDD information- of a particular customer with the transactions that the customer carries out in the casino (criterion 22.1 (a)), therefore this legal provision must be fulfilled and be relevant whenever it may be applicable.

Regarding the reporting entities, in addition to lawyers and notaries, it is required that according to the FATF, "other independent legal professions" are defined as reporting entities according to the law and "the performance of an equivalent function for another form of legal agreement" is defined as a specified service according to the law (criterion 22.1 (e)).

### **Recommendation 23 – Designated Non-Financial Businesses and Professions (BPPJF) - Other measures**

Regarding the achievement of compliance with this recommendation, it is required to fulfill the requirements to report suspicious transactions in all situations where the professionals in question engage in a transaction "on behalf of or for the client". "Other independent legal professions" as well as certain situations in some BPPJF mentioned above such as in recommendation 22 example "performing an equivalent function for another form of legal agreement" after being defined as subjects or obliged under the law of are covered by the requirement to submit RTD (criterion 23.1 (c)).

The sub-legal acts, determine the "suitable" and "proper" criteria for compliance officers of BPPJF and create selection procedures for the employment of personnel in relevant functions for the AML/CFT, require the availability of a function of the independent audit for an unidentified field and number of BPPJF "with a limited number of staff" and the requirement for audit testing to cover not only the reporting and identification systems but also other components of the system for AML/CFT- in (criterion 23.2).

### **Recommendation 24 – Transparency and beneficial ownership of legal entities**

Based on FATF recommendation 24, countries should take measures in order to prevent the misuse of legal entities for money laundering or terrorist financing. Countries should ensure that there is adequate, accurate and timely information on the beneficial ownership and control of legal persons that can be obtained or accessed in a timely manner by the competent authorities. In addition, countries should consider measures to facilitate access to beneficial ownership and control information by financial institutions and BPPJFs that undertake the requirements set out in Recommendations 10 and 22.

Competent authorities must be able to obtain, or have timely access to, appropriate, accurate and up-to-date information on the ownership and beneficial control of companies and other legal persons and choose the mechanisms that they rely on to achieve this objective and when necessary use a combination of mechanisms in order to achieve the objective.

As part of the process of ensuring adequate transparency regarding legal entities, countries should have mechanisms that:

- Identify and describe the different types, forms and basic features of legal entities in the country;
- Identify and describe the processes for creating those legal entities, as well as obtaining and registering basic and beneficial ownership information;
- To make the above information public; and
- Assess the money laundering and terrorist financing risks associated with different types of legal entities established in the country.

During the assessment of Kosovo's compliance with international standards by the experts within the PECK Project, it was emphasized that Kosovo had not undertaken any assessment of the risks of ML/TF related to the different types of legal entities and there were no existing mechanisms to identify and describe the process of identifying and recording beneficial ownership information. Regarding the assessment of ML/TF risks related to different types of legal entities, this type of sectoral assessment has already begun, which is now in the finalization phase and its results are expected to be published.

As for the basic ownership information for legal entities, they are made publicly available by the Kosovo Business Registration Agency, but these legal entities are not obliged to keep all shareholder information. There are no requirements to ensure that beneficial ownership information is available, updated or maintained. Internal and international cooperation mechanisms for the exchange of beneficial ownership information do not specifically exist, and bearer share guarantees are not regulated or prohibited by applicable legislation.

In order to address these identified deficiencies and to achieve compliance with this recommendation, the Ministry of Industry, Entrepreneurship and Trade initially established the working group for the drafting of the concept document in order to address this field and address the identified deficiencies. Concept Document for the Register of Beneficial Ownership has been approved by the Government with Decision No. 22/86 dated 04/07/2022. Then, the Ministry with Decision Ref 02/No. 320, dated 06/10/2022, has established a Working Group for the drafting of the draft law for the Register of Beneficial Ownership, which is expected to be processed for further approval.

This Draft Law deals with the creation of the Register for Beneficial Owners, which register would enable the regulation of a very important field in a single legal instrument. This would not only facilitate the work of law enforcement bodies, entities obliged to report, but would also regulate access to appropriate, accurate and current information on the beneficial owners of businesses and other legal entities.

The draft law defines the Kosovo Business Registration Agency as the responsible authority for the administration and maintenance of the Register of Beneficial Owners.

Then it regulates other issues related to:

- details of the mandatory data that must be recorded and kept up-to-date in the Register; establishing the necessary measures to ensure data security; the obligation to register and update the required ownership information in the Registry; the time limits within which the required ownership information must be recorded and updated; provisions for the method and procedure of consulting data for beneficial owners in the Register; determines the competent authorities who are granted free, direct and unrestricted access to all beneficial ownership data in the Register and reporting entities and other persons who have a legitimate interest in having access to all beneficial ownership data; provides the right to submit a request for equipment with an extract from this Register; determines the minimum period for keeping records of beneficial ownership; provides the right to file administrative complaints with the relevant parties and contains provisions that define the mechanism for filing such complaints; as well as imposing sanctions on offenders for law breakers.

The working group will also consider the requirements of the 4th and 5th EU AML Directives, which describe the creation of a central register for beneficial ownership information related to legal entities that are incorporated in Kosovo.

### **Recommendation 25 – Transparency and beneficial ownership of legal agreements**

The evaluation has concluded that the criteria of this Recommendation has been broadly met. The system, however, would benefit from amendments to the law which would directly address measures to prevent the misuse of legal agreements. In particular, measures should be taken in order to introduce a legal requirement for a trustee to disclose his/her status to Financial Intelligence and the BPPJF during the establishment of business relationships and respective sanctions. In addition, the EU's 4th and 5th AML Directives have introduced requirements to establish a central register of beneficial ownership information of the trustee, when it inflicts tax consequences in the country. As long as no agreement can be imposed under the laws of Kosovo, there are no prohibitions on foreign fiduciary administrators having bank accounts (or being the bank accounts of beneficial owners) in Kosovo, or on a resident acting as an administrator of trusted for an agreement established in another country. If in these circumstances the agreements generate tax consequences in Kosovo, they trigger the requirements of the EU directive for the establishment of a central registry for agreements (and other similar legal agreements) related to beneficial ownership information.

In order to address these identified deficiencies and achieve compliance with this recommendation, the Ministry of Industry, Entrepreneurship and Trade, as elaborated above in Recommendation 24 - Transparency and beneficial ownership of legal entities, has drafted the Draft Law on the Register of Beneficial Ownership, which is expected to be processed for further approval. For other clarifying details see recommendation 24 of this Concept Document.



## **Recommendation 26 – Regulation and supervision of institutions**

Recommendation 26 is assessed as partially compliant. While a number of issues noted in the report (e.g. full and effective implementation of the Basel core principles and the lack of a full risk-based approach to the supervision of financial institutions) do not require legislative changes and can be addressed by correcting the internal framework of the supervisor and, in the case of the issue in question regarding the joint responsibility between the central bank and the FIU, they can be regulated by an agreement between these institutions, there are a number of issues that require changes in the legal framework, for example;

i) For banks and insurance companies, there is a lack of clear language to prevent accomplices of criminals from entering the financial market as holders (or beneficial owners) of a significant or controlling interest;

ii) For non-banking financial institutions, there is a lack of:

a) clear language to prevent persons with a criminal record from holding (or being beneficial owners of) a significant or controlling interest, or holding a management function, in an IFJB; and

b) the requirement to prevent accomplices of criminals from doing the same; iii) for microfinance institutions, there are no requirements to prevent persons with a criminal record or their associates from having (or being beneficial owners ) a significant or controlling interest, or holding a management function in a MOFI.

Amendment of the law on Banks and non-banking financial institutions

The legislation refers to the CBK's ability to exercise effective consolidated supervision, apparently also for AML/CFT purposes, but without further provisions in law or other mandatory means to ensure the mechanisms and tools for its practical implementation .

Amendment of relevant legislation related to AML/CFT

## **Recommendation 27 – Authorizations of supervisors**

Kosovo has been assessed as partly in compliance with this recommendation, partly due to the issue of joint supervisory authorities under Recommendation 26 but also because i) Mechanism for the implementation of the supervisor's power to compel the production of or gain access to any relevant information regarding monitoring compliance with the requirements of the AML/CFT seems to be based on the need to seek direction from the court because ii) supervision does not have the power to limit or suspend the license of the financial institution for failure to comply with the requirements of the AML/ CFT. While the first deficiency requires an assessment of the compliance of paragraphs 3-5 of Article 35 of the AML/CFT Law with this FATF request, the second requires an amendment of the AML/CFT Law to create the CBK's competence to to restrict/suspend a licence.

### **Recommendation 28 – Regulation and supervision of BPPJFs**

Kosovo has been assessed as partially compliant with this recommendation, however, only one of the issues noted in the assessment requires legislative change as the others can be addressed by signing Memorandums of Understanding between sector regulators/supervisors and FIU-K and issuing internal procedures and manuals to implement a comprehensive risk-based approach to supervision. This issue relates to the lack of appropriate measures in sectoral legislation to prevent criminals or their associates from being professionally accredited or having (or being the beneficial owner of) a significant or controlling interest or holding a management function in BPPJFs.

### **Recommendation 29 – Financial Intelligence Units (FIUs)**

Kosovo has been assessed as mostly in compliance with this recommendation. However, it should be noted that the 5th EU directive has greatly increased the power of the FIU to access and obtain information. The FIU-K now has extensive rights regarding requests for information from reporting entities, regardless of whether or not an RTD has been submitted (which is now clarified in the 5th EU directive). However, the evaluation report notes that there are no strict deadlines in the law regarding the acceptance of additional information from reporting entities and for the acceptance of information from public authorities. Moreover, according to the 5th Directive, other areas where the FIU should have access to data and information are i) PP information included in the PP registers for legal entities and legal agreements, in which the FIU will have to have unlimited access; ii) centralized automatic mechanisms, such as central registries or electronic data retrieval systems, which enable the identification, in a timely manner, of any natural or legal person holding or controlling payment accounts and bank accounts identified through IBAN and vaults maintained by a credit institution, which should be directly accessible immediately and unfiltered by national FIUs; iii) FIU-K must have access to information that allows the identification, in a timely manner, of any legal or natural person owning the real estate, including through electronic records or data retrieval systems where such records or systems are available. In particular, these issues will need to be assessed in light of the requirements set out in the 5th AML Directive which states that: "FIUs must have access to information and be able to exchange it without obstacles, including appropriate cooperation with law enforcement authorities. In all cases of suspected criminality and, in particular, in cases involving the financing of terrorism, information must flow directly and quickly without undue delay."

### **Recommendation 30 – Responsibilities of Law Enforcement and Investigative Authorities**

This recommendation was assessed as mostly compliant; the only important issue noted in the evaluation is the need to establish specific procedures for parallel financial investigations, as well as for asset tracing, which does not require legislative measures.

### **Recommendation 31 – Powers of the Enforcement and Investigation Authorities**

This recommendation was rated mostly compliant; the only issue noted is that there are no mechanisms available to identify controlling accounts. In light of the requirement in the 5th Directive to ensure access by "national competent authorities" to the register of bank accounts

(already existing in Kosovo) and to the register of safes (yet to be established), measures will have to be taken in order to provide an approach to competent law enforcement authorities (Prosecution Office, Kosovo Police, Tax Administration, Customs, Anti-Corruption Agency), during financial investigations for PP, main related offenses and FT.

### **Recommendation 32 – Cash money couriers**

This recommendation was rated mostly compliant. The only issue that may require legal change (either by revising paragraph 2 of Article 33 of the Law on AML/CFT or by instructions through sub legal acts) is to address certain restrictions on obtaining information from the post office, freight forwarder or commercial courier.

### **Recommendation 33 – Statistics**

According to the evaluators, the integrated statistics are not kept in such a way as to allow the evaluation of the effectiveness of the AML/CFT system. This recommendation has been assessed as partially compliant due to issues related to the collection and maintenance of statistics, which can be addressed either by sub-legal acts and/or by increasing the effective implementation of existing mechanisms for the collection and maintenance of statistics.

Regarding this recommendation, since the time it was given, there have been several developments, since Kosovo has implemented the Case Information Management System (SMIL) and the interface of the Police, prosecution and court systems with this system. However, it is required to review which statistics have been recommended to be kept and to update and take the necessary steps in order to address the recommendation.

### **Recommendation 34 – Guidance and comments**

This recommendation has been assessed as compliant, no action is required.

### **Recommendation 35 – Sanctions**

This recommendation was assessed as partially compliant, as there are some technical deficiencies regarding the definition and substantial inconsistencies regarding the classification of violations of the AML/CFT requirements and it does not appear that the AML/CFT Law provides a range of proportionate and convincing sanctions in order to deal with natural or legal persons who do not meet the requirements of AML/CFT. Legislative changes may be required to address these issues.

### **Recommendation 36 – International Instruments**

This recommendation has been assessed as not applicable to Kosovo, therefore no measures are needed. The recommendation requires countries to become parties to the Vienna Convention, the Palermo Convention, the United Nations Convention against Corruption (Merida Convention) and

the Convention on the Financing of Terrorism .. This does not depend on Kosovo, therefore it is considered inapplicable.

### **Recommendation 37 – Mutual legal assistance**

This Recommendation was assessed as largely compliant, although some of the issues noted - a limited impact of dual criminality in relation to cooperation with TF, see Recommendation 5 on the criminalization of TF), and the lack of strict deadlines in the law - could seek legal intervention.

### **Recommendation 38 – Mutual legal assistance: Freezing and confiscation**

This recommendation was assessed as partially compliant as most of the FATF requirements in this recommendation were not present in Kosovo's domestic framework. This will require a review of freezing and confiscation legislation, including: Law on Extended Powers for Confiscation of Assets, Law no. 05/L-049 on the Administration of Seized and Confiscated Assets and the Law NNJ.

Some of the aforementioned recommendations on mutual legal assistance as well as freezing and confiscation have already been addressed, specifically through Law No. 06/L-087 Extended Powers for Confiscation of Assets, amendments to Code No. 06/L-074 Penal Code of the Republic of Kosovo, Code No. 08/L-032 of Criminal Procedure, Law No. 08/L-026 on the amendment and supplement of Law No. 04/L-213 on International Legal Cooperation in Criminal Matters, Law 08/L-121 on the State Bureau for Verification and Confiscation of Unjustified Assets, while Law No. 05/L-049 for the Administration of Seized and Confiscated Assets is in the process of being amended, and the issue of the Asset Recovery Office also remains to be addressed.

### **Recommendation 39 – Extradition**

This recommendation was assessed in partial compliance, due to significant concerns regarding the authorities' ability to execute extradition requests without undue delay. However, this deficiency does not require the adoption of legal measures

### **Recommendation 40 – Other forms of international cooperation**

This recommendation was rated mostly compliant; only some technical deficiencies were noted regarding the unclear powers of the supervisory authorities to exchange information, which do not need legislative changes.

The working group is of the opinion that by addressing these identified issues and problems, not only will a higher compliance with FATF international standards and the EU Directive be achieved, but it will also influence the intensification of the prevention and fight against money laundering and combating the financing of terrorism.

In the following, the problem tree is presented, which examines the causes and effects that this problem produces.

**Figure 1: Problem tree showing the main problem, its causes and effects**

**Effects**        The threat to economic stability and the economy of Kosovo

**Main Problem**     Technical non-compliance and the need for further harmonization of local legislation with FATF international standards and *acquis communautaire*

**Causes:**        Legal deficiencies due to the advancement and changes of FATF standards and the EU Directive

The working group has found that the legal deficiencies in the local legal framework are attributed to the advancement and changes of the FATF standards and the EU Directive, which constitute the key cause of the problem elaborated within this Concept Document. The existing local legislation is not considered to ensure sufficient compliance with the advancement and recent changes that this field has undergone. So, while a number of countries are making progress in terms of increasing compliance in the field of preventing money laundering and combating the financing of terrorism, when we turn to local legislation, we see that Kosovo does not have clear and sufficient provisions as refers to the provisions that have advanced within the V Directive of the EU and are related to the improvement of transparency towards the real owners of companies and trusts to prevent money laundering and the financing of terrorism through dark structures; improving the work of financial intelligence units with the interconnection of registers of beneficial ownership; dealing with terrorist financing risks related to the anonymous use of virtual currencies and other pre-paid instruments; improving cooperation and strengthening cooperation between financial supervision authorities regarding PPP/LFT; expanding the criteria for assessing high-risk third countries and ensuring a high level of safeguards for financial flows and improving controls for transactions from such countries.

It is worth re-emphasizing that Kosovo has a law on the Prevention of Money Laundering and Combating the Financing of Terrorism which covers the issues of AML/CFT and which is in high compliance with FATF international standards, however, as mentioned above, it is a review of the AML/CFT Law is needed to bring it up to date in line with the revised FATF Recommendations and the European Union Directive 2018/843 known as the 5th EU Directive.

However, in many other legislative initiatives, it is noted that elements of this field have been addressed, within the Ministry responsible for Foreign Affairs, the issue of targeted financial sanctions related to the financing of terrorism and the spread of weapons of mass destruction has been addressed, where now Law No. was approved. 08/L-146 on the Implementation of Targeted International Financial Sanctions.

Furthermore, within the Ministry responsible for Trade and Industry, we have another initiative for the regulation of the Property Register, taking into account the above-mentioned documents and the need to regulate the field related to the identification of beneficial ownership, the working group has been created to draft the Concept Document for Register of Beneficial Owners which was approved by the Government with Decision No. 22/86 dated 04/07/2022. Also with the Decision of the Ministry of Industry, Entrepreneurship and Trade Ref 02/No. 320, dated 06/10/2022, a Working Group was created for the drafting of the Bill for the Register of Beneficial Ownership, and it is expected that this issue will also be addressed with the adoption of a law.

Further, it is worth noting that the Financial Intelligence Unit of Kosovo, regarding the issue of beneficial ownership, issued Administrative Instruction MF (NjIF-K) No. 01/2021 for the Beneficial Owner for the Reporting Entities in order to increase the transparency of the beneficial ownership, as well as the guidance of the reporting entities defined according to Law No. 05/L-096 for PPP/LFT, for the identification and verification of beneficial owners in order to effectively manage the risk of money laundering and terrorist financing.

One way or another, Kosovo continues with the undertaking of initiatives regarding the establishment of the legislative framework in the field of PPP/LFT in order to advance it with international and European standards in this field, as well as regarding the strengthening of the fight against PP/ FT and the establishment of international cooperation. Therefore, this Concept Document also presents one of these initiatives among others mentioned above in this document.

Considering the entire legal framework and legislative initiatives in this field, what results is that although the legislation in force in the Republic of Kosovo largely regulates the field of PPP/LFT, the need for further advancement and review of this field is inevitable.

The analysis made for the needs of this Concept Document highlights the need to foresee more detailed procedures, specifications, and criteria related to some of the criteria defined within the FATF Recommendations and EU Directive V.

Reflecting on the rule of law, it is known that the prevention, fight and proper sanctioning of money laundering and the fight against the financing of terrorism must be done through the establishment and strengthening of the legislative framework, but emphasizing that the key action is also its practical implementation by the competent entities and authorities defined by law.

Therefore, the legal shortcomings presented above, prevent Kosovo from being in full compliance with international and European standards in this field, as well as for subjects and law enforcers in some aspects, they can potentially create difficulties in practical implementation, thus ultimately making the fight against money laundering and the fight against the financing of terrorism more difficult.

## 1.4. Stakeholders

The figure below lists the stakeholders identified based on the problem definition. The figure also shows whether they are affected by causes, effects or both. In addition, the last column in the summary shows how they are affected. Chapter 5 provides information on how these stakeholders were consulted.

*Figure 2: Overview of stakeholders based on problem definition*

<b>Name of interested party</b>	<b>Causes to which the party is connected</b>	<b>Effects to which the party is connected</b>	<b>The way in which the party is related to this cause(s) or effect(s)</b>
Financial Intelligence Unit	Legal deficiencies	Difficulty in preventing and combating ML/TF	FIU-K is the central independent national institution within the Ministry of Finance, responsible for researching, receiving, analyzing and distributing to competent authorities and making public information related to potential money laundering and terrorist financing.
Board of the Financial Intelligence Unit	Legal deficiencies	Difficulty in coordinating and supervising state policies for preventing and combating ML/TF	The Supervisory Board of the Financial Intelligence Unit supervises and ensures the independence of FIU-K and performs the function of the responsible coordinating mechanism for determining the direction of state policies for the prevention of money laundering and terrorist financing based on the identified risks, as well as for the establishment of inter-institutional cooperation in accordance with the goals of the law on PPP/LFT.
Special Prosecution Office	Legal deficiencies	Difficulty in the investigation of ML/TF criminal offences	The Special Prosecution Office has special case jurisdiction over "criminal offenses against the constitutional order and security of the Republic of Kosovo", which is related to chapter XIV of the Criminal Code, which also includes criminal offenses related to terrorism. Whereas in regard to the criminal offense of money laundering, the Special Prosecution Office has jurisdiction over the criminal offense of money laundering committed together with [other] "criminal offenses that are within the competence of the Special Prosecution Office, regardless of the amount or benefit". Special Prosecution Office has jurisdiction over the criminal offense of money laundering, committed

			"as a single criminal offense, if the value of the amount or benefit is in the amount of five hundred thousand (500,000) euros or more.
Kosovo Police	Legal deficiencies	Difficulty in the investigation of ML/TF criminal offences	The Kosovo Police, after notifying or receiving the intelligence reports from the competent authorities, according to the authorizations, conducted preliminary investigations
Tax Administration of Kosovo	Legal deficiencies	Difficulty in the investigation of ML/TF criminal offences	Tax Administration of Kosovo according to Law No. 03/L-222 on Tax Administration and Procedures amended and supplemented by Law No. 04/L-102 and No. 04/L-223 is responsible for the implementation of this law, the law on personal income tax, the law on corporate income tax, the law on value added tax and any other legislation in Kosovo, which assigns the duty to administer any type of tax. As for the connection with the field of AML/CFT, it has legal obligations related to the fight against fiscal evasion, which is a criminal offense related to AML/CFT.
Kosovo Customs	Legal deficiencies	Difficulty in the investigation of ML/TF criminal offences	The Customs of Kosovo responsible for the implementation of the customs legislation which regulates the basic elements of the system for the customs protection of the economy of the Republic of Kosovo and the rights and obligations of all participants in the implementation of the customs legislation. As for the field of PPP/LFT, it has legal obligations defined in relation to the implementation of Article 33 of Law No. 05/L-096 - Mandatory declaration of circulation of monetary instruments inside and outside Kosovo.
Central Bank of Kosovo	Legal deficiencies	Difficulty in supervising the implementation of legislation on PPP/LFT by banks and financial institutions	The CBK supervises banks and financial institutions in terms of compliance with the obligations under the Law on PPP/LFT.
Ministry of Justice	Legal deficiencies	Harmonization of legislative policies affecting the prevention and combating of ML/TF and	The Ministry of Justice, among other things, prepares public policies, drafts legal acts, drafts and approves by-laws, as well as defines mandatory standards in the field of justice in accordance with the Constitution and legislation in force, supervises the legality of work of



		international cooperation	free professions, as well as offers international legal assistance in accordance with the law in force.
The relevant departments for European Integration and Policy Coordination within the office of the Prime Minister and the Ministry responsible for Finance	Legal deficiencies	Providing support in harmonization with the EU acquis	The Office for European Integration within the Office of the Prime Minister, among others, is responsible for providing support in aligning the Legislation with the EU acquis.
Association of Banks of Kosovo	Legal deficiencies	Difficulty in implementing PPP/LFT legislation	The Association of Banks of Kosovo is representative of the interests of the banking sector which are reporting entities defined according to paragraph 1.1 of Article 16 of Law No. 05/L-096 on the Prevention of Money Laundering and Combating the Financing of Terrorism and have legal obligations within the framework of the implementation of this law.
Civil Society Organizations	Legal deficiencies	Difficulty in implementing PPP/LFT legislation	Non-Governmental Organizations in Kosovo are reporting entities defined according to paragraph 1.9 of Article 16 of Law No. 05/L-096 on the Prevention of Money Laundering and Combating the Financing of Terrorism and have legal obligations within the framework of the implementation of this law..
Chamber of Notaries	Legal deficiencies	Difficulty in implementing PPP/LFT legislation	Notaries are reporting entities defined according to paragraph 1.6 of Article 16 of Law No. 05/L-096 on the Prevention of Money Laundering and Combating the Financing of Terrorism and have legal obligations within the framework of the implementation of this law.
Insurance Association of Kosovo	Legal deficiencies	Difficulty in implementing PPP/LFT legislation	The Insurance Association of Kosovo has represented the interests of the Insurance Companies sector, which are reporting entities defined according to paragraph 1.2 of Article 16 of Law No. 05/L-096 on the Prevention of Money Laundering and Combating the Financing of Terrorism and have legal obligations within the framework of the implementation of this law.

<p>Project Against Economic Crime PECK II</p>	<p>Legal deficiencies</p>	<p>Providing support through international experts in the field</p>	<p>The purpose of the Project is to strengthen institutional capacities to fight corruption, money laundering and terrorist financing in Kosovo in accordance with European standards through technical assistance and targeted evaluations for the improvement and improvement of economic crime reforms. The Financial Intelligence Unit (FIU) is one of the main counterpart institutions for this Project.</p>
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## Chapter 2: Objectives

First, the strategic objective of this policy is to strengthen the rule of law through the fight against negative phenomena with special emphasis on money laundering, related criminal offenses and the financing of terrorism, which are objectives derived from the main planning document of the Government<sup>7</sup>. In the Program of the Government of the Republic of Kosovo for the years 2021-2025, the rule of law is the basic principle on which the Government will work and for this purpose, we will fight without compromise organized crime and corruption, terrorism, economic crimes, domestic violence, human trafficking, as well as commitment to respecting human rights guaranteed by the Constitution and international conventions. This policy also aims to contribute to the prevention and fight against crime, which is also one of the objectives where, for this purpose, it is planned to raise the human, analytical and investigative capacities of order and security mechanisms, to complete and change the strategic and legal framework, as and increasing interoperability with other institutions. For this purpose, the rationalization of the strategic framework is planned, in order to create a consolidated state strategy against crime, which responds to real risks and improves inter-institutional coordination.

Among the objectives of the National Development Plan 2023-2025, in Pillar VI - Good Governance, in the public finance sector, sector 02, development goal 10 - Effective and Accountable Government, the drafting and approval of the Concept Document for the Fight against Prevention is foreseen of Money Laundering / Combating the Financing of Terrorism.

As specific objectives of this concept document within these strategic objectives, is the advancement of the legal framework to achieve compliance with international FATF and European standards to prevent and combat money laundering, related criminal offenses and the fight against the financing of terrorism, among them specifically the improvement of the PPP/LFT system related to local policies and coordination, financing of terrorism and proliferation, as well as preventive measures, supervision and beneficial ownership are the key objectives in order to improve the PPP/LFT System, foreseen in The Recommended Action Plan for the Improvement of the PPP/LFT System 2019 - 2023. The fight against fiscal evasion, which is among the priorities of the National Risk Assessment of Money Laundering and Financing of Terrorism and the National Strategy of the Republic of Kosovo for Prevention and Combating the Informal Economy, Money Laundering, Financing of Terrorism and Financial Crimes in which the approval of the Concept document for improving legislation in the field of Prevention of Money Laundering and Combating the Financing of Terrorism is also planned, in accordance with the practices of the EU, the recommendations of PECK II, Country Report 2018, is foreseen as a measure to increase legal coercion.

This will be achieved through the measures reviewed in Chapter 3 of this Concept Document.

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<sup>7</sup> <https://primeminister.rks-gov.net/wp-content/uploads/2021/05/Program-of-Government-of-Kosova-2021-2025.pdf>

***Figure 3: Relevant objectives of the Government***

Relevant objectives	Name of the relevant planning document (source)
<p><i>Strategic objective</i> – The rule of law through the fight against organized crime and corruption, terrorism, economic crimes, domestic violence, human trafficking, as well as commitment to respecting human rights guaranteed by the Constitution and international conventions.</p> <p><i>In Pillar VI - Good Governance</i>, in the public finance sector, sector 02, development goal 10 - Effective and Accountable Government, there is the action - Drafting and approval of the Concept Document for Combating the Prevention of Money Laundering / Combating the Financing of Terrorism in The National Development Plan-NDP 2023-2025 for the implementation of the strategic measure.</p>	<p>Program of the Government of the Republic of Kosovo 2021-2025</p> <p>National Development Plan (NDP) 2023-2025</p>
<p><i>Specific objective</i> –</p> <p>Improving the PPP/LFT system related to local policies and coordination, terrorism and proliferation financing, as well as preventive measures, oversight and beneficial ownership are key objectives to improve the PPP/LFT System.</p> <p><i>Fiscal evasion</i> poses an extremely high threat to money laundering, so combating it is among the priorities of the National Money Laundering and Terrorist Financing Risk Assessment</p> <p><i>Specific Objective 1.2:</i> Qualitative increase of voluntary compliance through raising awareness, reporting and legal measures of restriction. Measures to increase legal strictness: Approval of the Concept document for the improvement of legislation in the field of Prevention of Money Laundering and Combating the Financing of Terrorism, in accordance with EU practices,</p>	<p>Recommended Action Plan for the Improvement of the PPP/LFT System 2019 - 2023 approved by Government Decision No. 05/52 dated 12/24/2020.</p> <p>The National Assessment of the Risk of Money Laundering and Financing of Terrorism approved by the Government of the Republic of Kosovo with Decision No. 04/25 dated 24.12.2020</p> <p>National Strategy for the Prevention and Combating of the Informal Economy, Money Laundering, Financing of Terrorism and Financial Crimes 2019-2013.</p>

<p>recommendations of PECK II, Country Report 2018.</p>	<p>Program for Economic Reforms 2023-2025</p>
<p><i>Reform measure #7:</i> Reduction of the informal economy through improved intelligence-based surveillance; Review of the FIU risk assessment methodology according to recommendations of evaluations and technical assistance in this area (FIU)</p>	

### Chapter 3: Options

This Concept Document deals with all the options that can be proceeded in the field of preventing money laundering and combating the financing of terrorism. As emphasized above, this was done in order for the product that emerges from this Concept Document to be as close as possible to contemporary international standards in this field and consequently to improve Kosovo's compliance in terms of the implementation of these standards in place. Therefore, the Concept Document deals with three main options regarding the revision of the legal framework in the field of preventing money laundering and combating the financing of terrorism. The no-change option, which envisages maintaining the status quo; the option for improving the implementation and execution of the legal framework, which does not envisage legislative changes, but focuses on the implementation of laws that already exist; and finally, the option with legislative changes, which foresees the change and completion of the legal framework in the field of preventing money laundering and combating the financing of terrorism through changes to the legislation in force. This Concept Document also addresses the impacts on the administrative burdens, which in this field should be noted as already being assessed by the relevant institutions as minimal, since the legislation in force covering the field of PPP/LFT does not contain paid administrative procedures and reporting is done online through the electronic system. However, this legislation contains provisions that provide for the acquisition and maintenance of mandatory information, which may cause an administrative burden regarding the storage and availability of information in physical form.

#### Chapter 3.1: The no change option

The no change option means that no enforcement or legislative action will be taken to address the main problem explained above. With the no-changes option, the main problem related to the lack of adequate legislation to prevent money laundering and combat the financing of terrorism would continue to exist. Consequently, the effects that the shortcomings elaborated in this concept document may produce, will continue to remain a potential risk and will negatively affect Kosovo not being in full compliance with FATF and EU international standards in this area.

Consequently, the presence of these deficiencies in the legal framework endangers financial stability, the prevention of money laundering, related criminal acts, the financing of terrorism, as well as Kosovo's international cooperation in this field.

### Chapter 3.2: Option to improve implementation and execution

Another option considered by the working group is the option to improve implementation and enforcement. Despite the discussions and analyzes of the working group, taking into account the principle of legality, this option has been found not to be suitable for fulfilling Kosovo's international obligations in preventing money laundering and combating the financing of terrorism. Certain provisions that need to be revised and advanced are related to the sanctioned legal obligations of reporting institutions which, according to the principle of legality, cannot be regulated by secondary legislation.

Of course, how to improve the implementation and execution of the anti-money laundering and combating the financing of terrorism legislation now more clearly defined in Kosovo's legislation, as explained above, could be further strengthened, but this is out of scope of this Concept Document and in this way the problem identified in Chapter 1 would not be addressed and the objectives defined in Chapter 2 of this Concept Document would not be achieved.

### Chapter 3.3: Third option [with legislative changes]

The third option will examine the possibility of changing the legal framework of Kosovo in the field of PPP/LTF in order to introduce new provisions in accordance with FATF and EU standards. The research carried out for the purposes of this Concept Document has identified two models which can be applied to address the non-conformities identified alongside FATF standards and EU Directives. The first model envisages the completion of the amendment of the law on PPP/LTF with certain provisions, while the second model envisages the approval of the new law on PPP/LTF. The substance of both presented models is almost the same and they differ only in the legal instrument that you will choose.

*Figure 6. Comparative analysis of countries that have changed legislation in the field of money laundering and combating the financing of terrorism*

3.3.1. Under the option of amending and supplementing the Law on Prevention of Money Laundering and Combating the Financing of Terrorism

Under option 3.3.1 elaborates on the possibility of amending and supplementing the Law on Prevention of Money Laundering and Combating the Financing of Terrorism.

Complementing the amendment of the existing law on Prevention of Money Laundering and Combating the Financing of Terrorism is considered to be the best choice. The drafting of a new law will not be necessary, as most of the provisions of the current law are in compliance with international and European standards and are sufficient in scope. What needs to be done concretely is to complete the amendment of the law in order to address the technical non-compliances identified in terms of compliance with the FATF standards and with the IV Directive which are presented in this concept document, the compliance assessment report for PPP/LFT and state strategic documents, as well as the drafting of new provisions where deficiencies have been identified with the aim of harmonizing mainly with the 5th Directive of the EU as regards the provisions which have been added as new requirements at the level of the EU after 2018 such as the regulation of the supervisory framework in the field of PPP/LFT of virtual asset service providers, transparency of beneficial ownership, improvement of cooperation and strengthening of cooperation between supervisory authorities and others. In the future, as elaborated above in this concept document, it has already been warned that there will be other changes in the field of PPP/LFT at the level of the European Union.

The purpose of the amendment of the Law on PPP/LFT is to amend the existing articles of the Law in force which are relevant for changes as discussed above in the concept document and to complete/amend them, while integrating the new provisions that have been added as requirements international by FATF and the relevant European Directives of the field.

However, although the amendment of the Law on PPP/LFT is the preferred option and is considered the best solution, there are also reservations regarding the benefits that the choice of this model can bring. In this regard, it should be considered that the existence of more legal acts on the same issue resulting from the amendment and completion of the basic law, without the practice of officially presenting the consolidated version of the laws in our country, could cause confusion.

Achieving the required results regarding the improvement of the PPP/LFT system related to local policies and coordination, terrorism and proliferation financing, as well as preventive measures, supervision and beneficial ownership which are the key objectives in order to improve the PPP/LFT system LFT in implementation, as highlighted in the recommended Action Plan for Improving the System of Combating Money Laundering and Combating the Financing of

Terrorism approved on 12/24/2020 with the Decision of the Government of the Republic of Kosovo No. 05/52, can be fully achieved by supplementing and amending the existing Law.

### 3.3.2. Under the option of adopting the new law on Prevention of Money Laundering and Combating the Financing of Terrorism

Under option 3.3.2, it examines the possibility of adopting a new law whose scope consists of the current Law on PPP/LFT. The drafting of a new law will not be necessary, since most of the provisions of the current Law are in compliance with international standards and are sufficient in scope. Also, drafting a completely new Law would require significantly more time and resources, which would be unnecessary given the identified needs for changes.

## Chapter 4: Identification and assessment of future impacts

Within this chapter, the most important impacts that have been identified related to the options analyzed in this Concept Document are presented.

Meanwhile, appendices 1 to 4 present the assessment of all impacts in accordance with the tools for identifying economic, social, environmental and fundamental rights impacts. These tools are listed in the Manual for Drafting Concept Documents. The four appendices also indicate the significance assessment of the various impacts and the preferred level of analysis.

The table below lists the most important identified impacts of the first two options.

*Figure 7: The most important impacts identified for the impact category*

Categories of impacts	Relevant impacts identified	
	Option 1	Option 2
Economic impacts	Negative impact on economic development, combating the informal economy, money laundering, related criminal offenses and combating the financing of terrorism	Negative impact on economic development, combating the informal economy, money laundering, related criminal offenses and combating the financing of terrorism
Social influences	Negative impact, as it can influence the encouragement of criminality in this area.	Negative impact, as it can influence the encouragement of criminality in this area.



Environmental impacts	There are no impacts.	There are no impacts.
Impacts on fundamental rights	There are no impacts.	There are no impacts.
Gender influence	The current legal infrastructure does not have any direct gender impact, as it addresses non-gender-specific issues.	There is no direct gender impact, given that the applicable law addresses non-gender-specific issues.
Social equity impacts	There are no impacts, since it addresses non-specific issues of social equality	There are no impacts, since it addresses non-specific issues of social equality.
Impacts on young people	It has no side effects, as it addresses non-age-specific issues.	It has no side effects, as it addresses non-age-specific issues.
Impacts on administrative workload	Negative impact as it does not affect the reduction of the administrative burden.	Negative impact as it does not affect the reduction of the administrative burden.
Impact of NMVs	There are no impacts.	There are no impacts.

The most important impacts under the third option will be dealt with separately in the following table. This elaboration will be valid simultaneously for both models within the option for legal changes.

<b>Categories of impacts</b>	<b>Relevant impacts identified – option 3</b>
Economic impacts	Prevention of money laundering, related criminal offenses and combating the financing of terrorism, reduction of the informal economy and economic stability.
Social impacts	- This impact is expected in terms of preventing money laundering and combating the financing of terrorism, demotivating criminality in this area through the punishment of persons who commit such criminal acts.
Environmental impacts	No impacts, as it addresses non-environmentally specific issues.
Impacts on fundamental rights	There are no impacts.

Gender influence	There are no impacts, as it addresses non-gender specific issues.
Social equity impacts	There are no impacts, since it addresses non-specific issues of social equality
Impacts on young people	It has no side effects, as it addresses non-age-specific issues.
Impacts on administrative workload	The implementation of this option could reduce the administrative burden.
Impact of NMVs	There are no impacts.

#### Chapter 4.1: Challenges with data collection

There were no challenges during data collection for the five purposes of this Concept Document

#### Chapter 5: Communication and consultation

Throughout the drafting process, the Ministry of Finance, Labour and Transfers will take into account the proposals of various relevant actors, consultations with experts in the given field, as well as consultation with civil society. The forms of communication will be different, starting from meetings, working groups and publications on the official website of the Ministry of Finance, Labour and Transfers and other relevant institutions such as the Financial Intelligence Unit, where communication will be active and direct. and constructive.

Below, in tabular form, are presented the steps that have been taken and will be taken in the future by the Ministry of Finance, Labour and Transfers in relation to the communication and consultation of the Concept Document for the prevention of money laundering and the fight against the financing of terrorism.

#### Figure 6: Summary of communication and consultation activities carried out for a concept document

It will be completed further after further consultations

<p>The consultation process aims to:                  Receive all opinions from the parties that have been and are involved in the implementation of the current law, from the problems, the effects caused in practice, to the changes that should be foreseen for the amendment and completion of the law.</p>
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The main purpose	Target group	Activity	Communication / notification	Deadline	Responsible Person
The meeting is open to all interested parties	All interested parties	Public meeting	Invitation by e-mail; AND Notification through the website <a href="https://fiu.rks-gov.net/">https://fiu.rks-gov.net/</a>	13/08/2020	Flutra Blakçori Xërxa
Open meeting for the NGO sector	All interested NGOs	Public meeting	Invitation via e-mail in coordination with the CIVIKOS Platform Notification through the website <a href="https://fiu.rks-gov.net/">https://fiu.rks-gov.net/</a>	19/08/2020	Flutra Blakçori Xërxa
Presentation of the Technical Document	Institutions with special emphasis PSRK	Presentation of the Technical Document "Reexamination of the exclusive competence of the Special Prosecutor's Office on the criminal prosecution of money laundering"	Invitation via e-mail to all members of the Working Group in coordination with the PECK III Project	11/05/2021	Flutra Blakçori Xërxa
Prior written consultation	All ministries and agencies	Notice regarding the Concept Document	Sending by e-mail to the relevant actors	From date 08/09/2023 during on 28/09/2023	
Written public consultation	All interested parties	Publication of the consultation on the portal for public consultation	Sending by e-mail to the relevant actors and publication on the electronic platform	16/11/2023 07/12/2023	

## Chapter 6: Comparing Options

To address the problem presented in this analysis, three options have been taken into consideration: the option without changes, according to which the current situation and consequently the

difficulties presented in practice would continue; option 2, of improving the implementation of the current legal framework without legislative changes; and option 3, which incorporates its two models, which contain legislative changes, i.e. complete the amendment of the Law on the Prevention of Money Laundering and the Fight against the Financing of Terrorism and the adoption of the new law on the Prevention of Money Laundering and the Fight against Financing of Terrorism.

*Option 1* - The option not to change the current situation would result in the continuation of the problems identified in this Concept Document. At the current stage regarding the prevention of money laundering and the fight against the financing of terrorism, the problems lie both in the deficiencies in the existing legal framework and in the lack of proper and effective implementation of the provisions that regulate this field. Thus, with the continuation of the status quo, there will continue to be stagnation in the number of cases and persons convicted for money laundering/eventually financing terrorism, which will most likely continue to remain small, and in addition to this, there will be a risk that the perpetrators criminal offenses to be motivated even more for the generation of material goods through their illegal activities. Consequently, the perception of the unfair and unprofessional work of the institutions regarding the successful demotivation of criminality will be deepened. Also, the problem of the lack of advancement of the legal framework or non-compliance with the revised FATF standards and EU Directives prevent Kosovo from becoming a member of international mechanisms and organizations in this field.

Option 2 – The option of improving the implementation of the current legal framework without legislative changes could potentially result in more efficient implementation and clarification regarding the current legislation and consequently also raising the curve of the proceedings of money laundering and terrorist financing cases. *This would be attempted to be achieved through the intensification of cooperation between law enforcement institutions that have a role in the process of preventing, investigating and combating ML/TF.* In addition, the improvement of the implementation of the current legal framework would be aimed at advancing the professional capacities of key actors in terms of ML/FT by organizing special trainings for law enforcement authorities, reporting entities, prosecutors and judges. who deal with ML/TF cases. In addition, the improvement of the implementation of the current legal framework would be aimed at advancing the professional capacities of key actors in terms of ML/FT by organizing special trainings for law enforcement authorities, reporting entities, prosecutors and judges. who deal with ML/TF cases. However, when we talk about the advancement of capacities, it is worth noting that so far many seminars, meetings and visits have been held, and even technical documents and by-laws have been drawn up to facilitate the work, but despite all these efforts, difficulties in implementation continue. because the deficiencies in the legal framework prevent the implementation of the acquired experiences. It follows that this option does not speak much for a genuine improvement of the current situation.

Moreover, even if more intensified specialization and coordination of the bodies responsible for the prosecution of these criminal offenses were achieved, still, the legislation in force, although advanced, has a limited scope in terms of the new provisions empowered by the V Directive EU. In addition to this, some technical problems identified in the evaluation report for PPP/LFT for Kosovo regarding compliance with FATF standards and IV Directive of the EU, with the selection of this option, the identified problems would continue to be present. Therefore, it can be said that the option of improving the implementation of the current legal framework without legislative changes is insufficient to eliminate the problems identified in this Concept Document.

*Option 3* - The option for legislative changes in the field of preventing money laundering and combating the financing of terrorism, aims to increase efforts to discourage money laundering, related criminal offenses and terrorist financing as much as possible. With the advancement of the legal framework through legislative changes, we have the opportunity to give law enforcement authorities, prosecuting and judicial bodies, legal power with which they would fight these crimes more strongly. This option would not only regulate the current legal framework, but would also improve and advance the position of Kosovo in the international sphere, given the fact that the Financial Intelligence Unit of Kosovo is a member state in the Egmont Group with all full rights like the states of other members and would enable the continuous intensification in the sphere of international cooperation and where it is possible the efforts for new memberships in the international mechanisms in this field including MONEYVAL<sup>8</sup>.

The first model of option 3 (3.1) which calls for the change of the legal framework through supplementing the change of the existing law on the Prevention of Money Laundering and Combating the Financing of Terrorism, is considered suitable and acceptable for achieving the goal of the final solution and stable of the main problem.

This model through the amendment of the current law, is quite expressed in the region and beyond due to the changes of the rapid evolution of money laundering and terrorist financing methods, through the wide use of electronic services and products and the change of typologies. , therefore this way is considered to be more practical for the advancement of the legal framework in order to follow new trends. This would also enable the raising of Kosovo's compliance level with FATF international standards and the relevant EU Directives in this field as soon as possible.

**In the Republic of Albania**, the basic law on the Prevention of Money Laundering and Financing of Terrorism is Law No. 9917, dated 19.5.2008, supplemented and amended six times so far, and the last amendment occurred with the amendment dated 21.7.2023 .

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<sup>8</sup> [https://www.coe.int/en/web/moneyval/moneyval-brief/statutory\\_documents](https://www.coe.int/en/web/moneyval/moneyval-brief/statutory_documents)

**The Republic of Macedonia** has updated the Law on the Prevention of Money Laundering and Combating the Financing of Terrorism in 2022, published in the Official Gazette of the Republic of Macedonia No. 151/2022 dated 04.07.2022.

**The Republic of Montenegro** has also amended the Law on Prevention of Money Laundering and Combating the Financing of Terrorism several times in 2014, 2018, 2019, and most recently in 2021.

The second model of option 3 (3.2), the adoption of the new law would bring the same effect but may be more exposed to delays and problems that may come with its adoption procedures, which would be unnecessary. At the same time, it leaves more room for intervention in the legal provisions which have already been assessed as being in compliance with international and European standards from the 2018 evaluation report of Kosovo's compliance with international standards in the field of preventing money laundering and combating financing of terrorism assessment made with the MONEYVAL methodology through the PECK II Project in Kosovo.

In conclusion, considering the advantages and disadvantages of each elaborated option, option 3 for legislative changes according to model (3.1) through supplementing the amendment of the current law on the Prevention of Money Laundering and Combating the Financing of Terrorism, is evaluated the most appropriate to address the issues identified in this Concept Document, and as such would enable more effectively the prevention of money laundering, related criminal offenses and the fight against the financing of terrorism, as well as advancing Kosovo's position in terms of compliance with international and European standards in this field

### Chapter 6.1: Implementation plans for the different options

[Briefly summarize Option 2. Describe how this option addresses the main problem, causes, and effects identified in the Problem Tree.]

**Figure 7: Implementation plan for Option 2**

The Purpose of Policy									Expected cost figure
Strategic Objective									
	Products, activities, year and responsible organization/department.								
Specific Objective 1	Product 1.1		Year1	Year2	Year3	Year4	Year5	Responsible institution	

								n/department	
		Activity 1.1.1							
		Activity 1.1.2							
		Activity 1.1.3							
	Product 1.2								
			Year1	Year2	Year3	Year4	Year5	Responsible institution/department	
		Activity 1.2.1							
Specific Objective 2	Product 2.1	Etc.							
	Product 2.2	Etc.							
Specific Objective N	Product N.1	Etc.							

[Briefly summarize Option 3. Describe how this option addresses the main problem, causes and effects identified in the Problem Tree.]

*Figure 8: Implementation plan for Option 3*

The Purpose of Policy	Alignment of legislation in the field of PPP/AML with updated FATF standards and EU Directives in this field							Expected cost figure	
Strategic Objective	The rule of law through the fight against organized crime and corruption, terrorism and economic crimes with a focus on preventing money laundering and fighting the financing of terrorism.								
	Product, activities, year and responsible organization/department								
Specific objective 1	Product 1.1								
			Year 1	Year 2	Year 3	Year 4	Year5	Responsible	

Improving legislation for the prevention of Money Laundering and Terrorist Financing, according to the revised FATF standards and relevant EU Directives	Approval of legal revisions for PPP/LFT							institution/department	
		Activity 1.1.1 Formation of the Working Group	Meetings with relevant actors	Completing the amendment and drafting of the legal provisions for the PPP/LFT law	Sending the approval to the Government	Forwarding to the Assembly for approval	Completing the amendment and drafting of the relevant by-laws	MFLT	
		Activity 1.1.2  Awareness of the reporting entities about the new provisions	Provision of PPP/LFT guidelines	Training for reporting subjects	Supervision of compliance by reporting entities for new legal provisions	Raising the understanding of PP/LFT risks among reporting entities	Raising the implementation of internal controls and procedures for the identification of PP/LFT risks in reporting	FIU-K	



		Activity 1.1.3	Raising the capacities of the authorities responsible for ML/TF investigations	Increased risk-based supervision by FIU-K	Increased surveillance according to the risk-based approach by CBK	Increase in confiscations of illegal assets as a product of ML/TF and related criminal acts	Specialized training for the investigation of cases related to virtual assets	Special Prosecutor's Office, Police, Customs, TAK, FIU-K, CBK	
Specific objective 2 Improving the PPP/LFT system related to local policies and	Product 2.1 The National Risk Assessment (NRA) approved by the Government	Policies and local coordination	VKR development and methodology approval	Training of the main ones	Monitoring the implementation of the risk-based approach	Detailed review of threats in the preliminary VKR	Development of handbooks for understanding ML/FT risks	MFLT and FIU-K	
coordination, terrorism and proliferation financing, as well as preventive measures, oversight and beneficial ownership	Product 2.2 Sectoral Risk Assessment for NGOs for FT	Activity 1.1.2 Preventive measures for FT and financial sanctions	Developing and updating the list of indicators for FT and proliferation	Providing detailed guidance to reporting entities on dissemination	Raising awareness of public sectors, reporting entities and NGOs about	Raising awareness of public sectors, reporting entities for the identification	Increasing inspection and supervisory skills and capacities	MFLT and FIU-K	

					TF threats	of beneficial owners			
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Chapter 6.2: Comparison table with the three options

[Give a brief narrative overview of the three options. Also present the option chosen and the main reasons why it was chosen.]

Figure 9: Comparison of options

<b>Comparison method:</b>			
<b>Relevant positive impacts</b>	Option 1: No change	Option 2: Improve implementation and execution	Option 3:
	There are no relevant positive impacts.	It is likely to increase the number of cases of ML/FT investigations.	Increasing the number of cases of ML/TF investigations.
		I can increase professional capacity within the relevant institutions, but I do not choose the problem and challenges	Raising professional capacity within the relevant institutions.
			Increasing Kosovo's compliance with FATF international standards and EU Directives
			Increasing the likelihood of further memberships in international and European mechanisms in this field
			The rise of international cooperation

<b>Relevant positive impacts</b>	Challenges in properly preventing and combating ML/FT			Challenges in properly preventing and combating ML/FT			The existence of more legal acts resulting from the amendment and completion of the basic law, without the practice of officially presenting the consolidated version of the laws in our country, could cause confusion.		
	Continuity of non-compliance with FATF international standards and EU Directives			Continuity of non-compliance with FATF international standards and EU Directives					
	It contributes to the perception of the unfair and unprofessional work of law enforcement institutions, the prosecution and judiciary regarding PP/FT			Stagnations in further memberships in international and European mechanisms in this field					
	No improvement in the increase in the number of cases of investigations and punishments for ML/TF.			No improvement in the increase in the number of cases of investigations and punishments for ML/TF.					
	The potential perpetrators of these criminal offenses will not be adequately demotivated.			Impossibility of proper compliance supervision of reporting entities					
<b>Relevant costs</b>	Within current budget limits			Within current budget limits			Within current budget limits		
<b>Assessment of the expected budget impact</b>	Year 1	Year 2	Year 3	Year 1	Year 2	Year 3	Year1	Year2	Year3

<b>Conclusion</b>			
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## Chapter 7: Conclusions and next steps

The Ministry of Finance, Labor and Transfers, as the proposer of this Concept Document, recommends to the Government of the Republic of Kosovo to approve Option 3 for legislative changes by supplementing the amendment to the Law on the Prevention of Money Laundering and Combating the Financing of Terrorism, which enables the prevention of effective PP/FT, the implementation of the Action Plan approved on 24/12/2020 with the Decision of the Government of the Republic of Kosovo No. 05/52 recommended for Improving the System of Combating Money Laundering and Combating the Financing of Terrorism, increasing compliance with FATF international standards and aligning with EU legislation, increasing international cooperation and the possibility of membership in international organizations.

In any case, the adoption of any sub-option from option 3 will enable the realization of the above-mentioned expectations. In addition, the Ministry considers that in addition to the legal changes, it would be appropriate to adopt the second option, which foresees the improvement of the implementation of the current legal framework in the field of preventing money laundering and combating the financing of terrorism in harmony with the recommendations of from the 2018 Assessment Report of Kosovo's compliance with international standards in the field of preventing money laundering and combating the financing of terrorism, an assessment made by experts from the Committee of Experts for the Evaluation of Measures Against Money Laundering and Terrorist Financing Terrorism with the MONEYVAL methodology through the PECK II Project in Kosovo. In this way, not only would the legal framework for PPP/LFT be completed and compliance with international standards ensured, but also the implementation of the already existing framework would be improved.

After the approval of this Concept Document, the Ministry of Finance, Labour and Transfers will start drafting legislative changes, taking into consideration the analysis developed within this document.

*Figure 10: Implementation plan of the preferred option*

[Add Implementation Plan for preferred option.]

### Chapter 7.1: Provisions for monitoring and evaluation

[Describe provisions and planning for monitoring and evaluation. If no such provisions are needed, explain why.]

These provisions already exist in the current legal framework, since in the current law there are provisions for compliance supervision for reporting entities, cooperation for compliance supervision, statistical data and feedback information, national risk assessment, administrative penalty procedure, etc.

Appendix 1: Economic impact assessment form

Category of economic impacts	The main impact	Is this impact expected to occur?		Number of organisations, companies and/or individuals affected	Expected benefit or cost of impact	Preferred level of analysis
		Yes	No			
Job places <sup>9</sup>	Will the current number of jobs increase?		x			
	Will the current number of jobs be reduced?		x			
	Will it affect the level of payment?		x			
	Will it affect the ease of finding a job?		x			
Doing business	Will it affect access to business finance?		x			
	Will certain products be withdrawn from the market?		x			
	Will certain products be allowed on the market?		x			
	Will businesses be forced to close?		x			
	Will new businesses be created?		x			
Administrative burden	Will businesses be forced to fulfill the obligations of providing new information?		x			

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<sup>9</sup> When it affects jobs, there will also be economic impacts

	Have the obligations of providing information for businesses been simplified?	x		Banks, financial institutions and free professions (lawyer, notary, accountant, auditor) and other reporting entities defined according to the law on PPP/LFT	low	
Trade	Are current import flows expected to change?		x			
	Are current export flows expected to change?		x			
Transportation	Will there be an effect on the way passengers and/or goods are transported?		x			
	Will there be any difference in the time required to transport passengers and/or goods?		x			
Investment	Are companies expected to invest in new activities?		x			
	Are companies expected to cancel or postpone investments?		x			

	Will investments from the diaspora increase?		x			
	Will investments from the diaspora decrease?		x			
	Will foreign direct investment increase?	x				
	Will foreign direct investment decrease?		x			
Competitiveness	Will the price of business products, such as electricity, increase?		x			
	Will the price of business inputs, such as electricity, decrease?		x			
	Are innovation and research likely to be promoted?		x			
	Is innovation and research likely to be hindered?		x			
Impact in NVM	Are the affected companies mainly SMEs?		x			
Pricing and competition	Will the number of goods and services available to business or consumers increase?		x			
	Will the number of goods and services available to business or consumers decrease?		x			
	Will the prices of existing goods and services increase?		x			
	Will the prices of existing goods and services decrease?		x			
Regional economic impacts	Will any particular business sector be affected?	x		Banks, financial institutions and free	low	



				profession s (lawyer, notary, accountant , auditor) and other reporting entities defined according to the law on PPP/LFT		
	Is this sector concentrated in a certain region?		x			
General economic development	Will future economic growth be affected?		x			
	Could it have any effect on the inflation rate?		x			

Appendix 2: Assessment form for social impacts

The category of social influences	The main impact	Is this impact expected to occur?		Number of organisations, companies and/or individuals affected	Expected benefit or cost of impact	Preferred level of analysis
		Yes	No			
Job places <sup>10</sup>	Will the current number of jobs increase?		x			
	Will the current number of jobs be reduced?		x			
	Are jobs in a particular business sector affected?		x			
	Will there be any impact on the level of payment?		x			
	Will it have an impact on the ease of finding a job?		x			
Regional social impacts	Are societal influences concentrated in a particular region or city?		x			
Work conditions	Are workers' rights affected?		x			
	Are standards for working in hazardous conditions provided for or repealed?		x			
	Will it have an impact on the way of developing the social		x			

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<sup>10</sup> When it affects jobs, there will also be economic impacts.

	dialogue between employees and employers?					
Social inclusion	Will it have an impact on poverty?		x			
	Is access to social protection schemes affected?		x			
	Will the price of basic goods and services change?		x			
	Will it have an impact on the financing or organization of social protection schemes?		x			
Education	Will it have an impact on primary education?		x			
	Will it have an impact on secondary education?		x			
	Will it affect higher education?		x			
	Will there be an impact on vocational training?		x			
	Will it have an impact on worker education and lifelong learning?		x			
	Will it have an impact on the organization or structure of the education system?		x			
	Will it have an impact on academic freedom and self-governance?		x			
Culture	Does the option affect cultural diversity?		x			

	Does the option affect the funding of cultural organizations?		x			
	Does the option affect opportunities for people to benefit from or participate in cultural activities?		x			
	Does the option affect the preservation of cultural heritage?		x			
Governance	Does the option affect citizens' abilities to participate in the democratic process?		x			
	Is everyone treated equally?	x				
	Will the public be better informed about certain issues?		x			
	Does the option affect the way political parties work?		x			
	Will there be any impact on civil society?	x			low	
Public health and safety <sup>11</sup>	Will it have any effect on people's lives, such as life expectancy or mortality rates?		x			
	Will it affect the quality of the food?		x			
	Will health risk increase or decrease due to harmful substances?		x			

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<sup>11</sup> When there is an impact on public health and safety, then there are regularly environmental impacts

	Will there be health effects due to changes in noise levels or air, water and/or soil quality?		x			
	Will there be health effects due to changes in energy use?		x			
	Will there be health effects due to changes in waste disposal?		x			
	Will there be an impact on people's lifestyles, such as levels of interest in sport, changes in nutrition, or changes in tobacco or alcohol use?		x			
	Are there particular groups that face much higher risks than others (defined by factors such as age, gender, disability, social group or region)?		x			
Crime and security	Does it affect the likelihood that criminals will be caught?	x			High	
	Is potential profit affected by crime?	x			High	
	Does it affect corruption levels?	x			High	
	Is law enforcement capacity affected?	x			High	
	Does it have any effect on the rights and safety of crime victims?		x			

Appendix 3: Assessment form for environmental impacts

Category of environmental impacts	The main impact	Is this impact expected to occur?		Number of organisations, companies and/or individuals affected	Expected benefit or cost of impact	Preferred level of analysis
		Yes	No			
Sustainable climate and environment	Will it have an impact on the emission of greenhouse gases (carbon dioxide, methane, etc.)?		x			
	Will fuel consumption be affected?		x			
	Will the variety of resources used to produce energy change?		x			
	Will there be any price difference for environmentally friendly products?		x			
	Will certain activities become less polluting?		x			
Air quality	Will it affect the emission of air pollutants?		x			
Water quality	Does the option affect freshwater quality?		x			
	Does the option affect groundwater quality?		x			
	Does the option affect drinking water sources?		x			
Land quality and land use.	Will there be an impact on land quality (regarding acidification, pollution, use of pesticides or herbicides)?		x			

	Will it affect land erosion?		x			
	Will land be lost (through construction, etc.)?		x			
	Will land be acquired (through decontamination, etc.)?		x			
	Will there be any change in land use (eg from forest use to agricultural or urban use)?		x			
Waste and recycling	Will the amount of waste generated change?		x			
	Will the ways in which waste is handled change?		x			
	Will there be an impact on opportunities for waste recycling?		x			
Use of resources	Does the option affect the use of renewable resources (fish stocks, hydropower, solar energy, etc.)?		x			
	Does the option affect the use of non-renewable resources (groundwater, minerals, coal, etc.)?		x			
The degree of environmental hazards	Will there be any effect on the likelihood of hazards, such as fires, explosions or accidents?		x			
	Will it affect natural disaster preparedness?		x			
	Is the protection of society affected by natural disasters?		x			
Biodiversity, flora and fauna	Will there be an impact on protected or endangered species or the areas where they live?		x			
	Will the size or connections between nature areas be affected?		x			

	Will it have any effect on the number of species in a given area?		x			
Animal welfare	Will the treatment of animals be affected?		x			
	Will animal health be affected?		x			
	Will the quality and safety of animal feed be affected?		x			



Appendix 4: Assessment form for the impact of fundamental rights

Category of impact on fundamental rights	The main impact	Is this impact expected to occur?		Number of organisations, companies and/or individuals affected	Expected benefit or cost of impact	Preferred level of analysis
		Yes	No			
Dignity	Does the option affect people's dignity, their right to life or a person's integrity?		x			
Freedom	Does the option affect the right to freedom of individuals?		x			
	Does the option affect a person's right to privacy?		x			
	Does the option affect the right to marry or create a family?		x			
	Does the option affect the legal, economic or social protection of individuals or families?		x			
	Does the option affect freedom of thought, conscience or religion?		x			
	Does the option affect freedom of expression?		x			

	Does the option affect freedom of assembly or association?		x			
Personal data	Does the option include the processing of personal data?	x				
	Are the individual's rights of access, rectification and objection guaranteed?	x				
	Is the way in which personal data is processed clear and well protected?	x				
Asylum	Does this option affect the right to asylum?		x			
Property rights	Will property rights be affected?		x			
	Does the option affect the freedom to do business?		x			
Equal treatment <sup>12</sup>	Does the option protect the principle of equality before the law?	x				
	Are certain groups likely to be harmed directly or indirectly by discrimination (eg any discrimination based on sex, race, colour, ethnicity, political or other opinion, age or sexual orientation)?		x			

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<sup>12</sup> Gender equality is addressed in the Gender Impact Assessment

	Does the option affect the rights of people with disabilities?		x			
Children's rights	Does the option affect children's rights?		x			
Good Administration	Will administrative procedures become more complicated?		x			
	Is the way in which the administration makes decisions affected (transparency, procedural deadline, right of access to a file, etc.)?		x			
	On criminal law and the prescribed punishments: are the rights of the defendant affected?		x			
	Is access to justice affected?		x			