
Funded
by the European Union
and the Council of Europe



EUROPEAN UNION

COUNCIL OF EUROPE



CONSEIL DE L'EUROPE

Implemented
by the Council of Europe

Project against Economic Crime (PECK)

www.coe.int/peck

Closing Conference

Pristina 28 April 2015

AML/CFT Assessment Report

Preventive Measures

Funded
by the European Union
and the Council of Europe



COUNCIL OF EUROPE



Implemented
by the Council of Europe

Project against Economic Crime (PECK)

www.coe.int/peck

Closing Conference

Pristina, 28 April 2015

AML/CFT Assessment Report

Section 3

Preventive Measures: Financial Institutions

Funded
by the European Union
and the Council of Europe



EUROPEAN UNION

COUNCIL OF EUROPE



CONSEIL DE L'EUROPE

Implemented
by the Council of Europe

Project against Economic Crime (PECK)

www.coe.int/peck

Strengths and Developments of Preventive Regime - financial institutions

- Main Law as updated in 2013 provides for a generally overall acceptable preventive regime for financial institutions though not harmonised and lacking important detail.
- Adequate awareness of AML obligations within the financial sector - particularly banking sector.
- *Legal* supervisory mandate to CBK for entire financial sector – through MoU.
- New Regulation to be issued by CBK - positively received by industry.
- Various guidance and rules issued by the FIU.

..... **BUT**

Funded
by the European Union
and the Council of Europe



EUROPEAN UNION

COUNCIL OF EUROPE



CONSEIL DE L'EUROPE

Implemented
by the Council of Europe

Project against Economic Crime (PECK)

www.coe.int/peck

Weaknesses of Preventive Regime – financial institutions

- **Conflicts, inconsistencies and ambiguities in the main Law itself render its application questionable.**
- **Ambiguity in the timing of application of customer due diligence.**
- **Inadequacy of reporting obligation – no mandate for financial institutions for reporting suspicions related to the financing of terrorism**
- **Non harmonisation of main Law and current CBK Rules create inconsistencies and ambiguities for an effective implementation.**

Funded
by the European Union
and the Council of Europe



EUROPEAN UNION

COUNCIL OF EUROPE



CONSEIL DE L'EUROPE

Implemented
by the Council of Europe

Project against Economic Crime (PECK)

www.coe.int/peck

Weaknesses of Preventive Regime - financial institutions

..... *continued*

- **Legal AML/CFT supervisory mandate to CBK not accompanied by legal application of supervisory powers.**
- **Legal uncertainty on appointment of competent authority to impose administrative sanctions.**
- **Inconsistencies in and lack of adequate sanctions.**
- **Absence of graduated administrative penalties and other sanctions to be applied proportionately to severity of offence.**

Funded
by the European Union
and the Council of Europe



EUROPEAN UNION

COUNCIL OF EUROPE



CONSEIL DE L'EUROPE

Implemented
by the Council of Europe

Project against Economic Crime (PECK)

www.coe.int/peck

Some general overall Recommendations:

- **Harmonize AML Law further with international standards and consolidate to remove conflicts, ambiguities and inconsistencies and introduce FT reporting.**
- **Provide further guidance to the financial sector – CBK new Regulation - and ensure effective compliance - strengthen the supervisory regime.**
- **Strengthen the sanctioning regime - introduce an effective graduated structure of administrative penalties that are applied by a competent authority in proportion to the severity of the offence.**

Funded
by the European Union
and the Council of Europe



COUNCIL OF EUROPE



Implemented
by the Council of Europe

Project against Economic Crime (PECK)

www.coe.int/peck

Closing Conference

Pristina, 28 April 2015

AML/CFT Assessment Report

Section 4

Preventive Measures: Designated non-Financial Businesses and Professions (DNFBPs)

Funded
by the European Union
and the Council of Europe



EUROPEAN UNION

COUNCIL OF EUROPE



CONSEIL DE L'EUROPE

Implemented
by the Council of Europe

Project against Economic Crime (PECK)

www.coe.int/peck

Strengths and Developments of Preventive Regime for DNFBPS

- Main Law provides for a generally overall acceptable preventive regime for DNFBPs though not harmonised and lacking important detail.
- Main Law goes beyond the international scope of coverage - covering other areas such as NGOs and Political Parties.
- Main Law provides for specific obligations of sectors of DNFBPs.

..... **BUT**

Funded
by the European Union
and the Council of Europe



EUROPEAN UNION

COUNCIL OF EUROPE



CONSEIL DE L'EUROPE

Implemented
by the Council of Europe

Project against Economic Crime (PECK)

www.coe.int/peck

Weaknesses of Preventive Regime for DNFBPs

- **Conflicts, inconsistencies and ambiguities in the main Law itself render its application questionable – sectorial division.**
- **Inadequacy of reporting obligation – financing of terrorism. Some DNFBPs not subject to the reporting regime at all.**
- **Some DNFBPs are not required to establish and maintain internal AML/CFT procedures, policies and controls including to appoint a compliance officer.**

Funded
by the European Union
and the Council of Europe



EUROPEAN UNION

COUNCIL OF EUROPE



CONSEIL DE L'EUROPE

Implemented
by the Council of Europe

Project against Economic Crime (PECK)

www.coe.int/peck

Weaknesses of Preventive Regime for DNFBPs

..... *continued*

- Legal uncertainties on the off-site supervisory powers of the FIU.
- No supervisory authority appointed for building construction companies
- Inconsistencies and lack of adequate sanctions; absence of a graduated structure of administrative penalties and legal uncertainty on appointment of competent enforcement authority.
- Lack of clarity on the status of gaming houses and licensed objects of games of chance as reporting subjects.

Funded
by the European Union
and the Council of Europe



EUROPEAN UNION

COUNCIL OF EUROPE



CONSEIL DE L'EUROPE

Implemented
by the Council of Europe

Project against Economic Crime (PECK)

www.coe.int/peck

Some general overall Recommendations:

- Reconsider the sectorial division of the AML Law and impose harmonized obligations on all DNFBPs and introduce FT reporting.
- Revise sanctioning regime as recommended for the financial sector.
- Clarify in the AML Law the off-site supervisory remit of the FIU.
- Clarify and harmonize status of gaming houses, casinos and licensed object of games of chance in the AML Law.

Funded
by the European Union
and the Council of Europe



COUNCIL OF EUROPE



Implemented
by the Council of Europe

Project against Economic Crime (PECK)

www.coe.int/peck

Closing Conference

Pristina, 28 April 2015

AML/CFT Assessment Report

Section 5

Legal Persons and Legal Arrangements: Beneficial Ownership

Funded
by the European Union
and the Council of Europe



EUROPEAN UNION

COUNCIL OF EUROPE



CONSEIL DE L'EUROPE

Implemented
by the Council of Europe

Project against Economic Crime (PECK)

www.coe.int/peck

Legal Persons: Strengths of Business Registration Regime

- **Comprehensive legislation with an upfront system of business registration.**
- **KBRA operates through 28 Municipal Centres - 'one stop shop' for business registration .**
- **No need for intermediaries (lawyers, accountants, etc) to register a business organisation - registration can be done online.**
- **Availability of information to the public through electronic site of KBRA.**

..... **BUT**

Funded
by the European Union
and the Council of Europe



EUROPEAN UNION

COUNCIL OF EUROPE



CONSEIL DE L'EUROPE

Implemented
by the Council of Europe

Project against Economic Crime (PECK)

www.coe.int/peck

Legal Persons: Weaknesses of Business Registration Regime

- **Inadequate maintenance, updating and timely availability of information.**
- **Lack of information relating to beneficial ownership.**
- **Accuracy of the information available.**
- **Inadequate due diligence.**
- **Easiness of registration.**

Funded
by the European Union
and the Council of Europe



EUROPEAN UNION

COUNCIL OF EUROPE



CONSEIL DE L'EUROPE

Implemented
by the Council of Europe

Project against Economic Crime (PECK)

www.coe.int/peck

Legal Persons: Some general overall Recommendations:

- Introduce an obligation for immediate reporting of changes to shareholding and directors.
- Introduce procedures and systems to identify where a person owns more than one business organisation.
- Introduce administrative procedures to ascertain to the extent possible the accuracy of documents and contents.
- Introduce procedures to identify interconnectivity between registered business organisations.
- Introduce measure for accuracy and validity of applications for registration to cater for the short registration period.

Funded
by the European Union
and the Council of Europe



COUNCIL OF EUROPE



Implemented
by the Council of Europe

Project against Economic Crime (PECK)

www.coe.int/peck

Legal Arrangements: Overview

- There are no specific legal provisions for the establishment of trusts and other legal arrangements – Recommendation 34 *Not Applicable* **however**
- Pointless and inapplicable legal provisions relating to the establishment and registration of trusts and legal arrangements in Kosovo negatively affects effectiveness.
- the drafting of these legislative provisions, and in particular those of the provisions of the AML/CFT Law must have consisted of the verbatim transposition of the respective FATF Standards.

Funded
by the European Union
and the Council of Europe



EUROPEAN UNION

COUNCIL OF EUROPE



CONSEIL DE L'EUROPE

Implemented
by the Council of Europe

Project against Economic Crime (PECK)

www.coe.int/peck

Legal Arrangements: Some general overall Recommendations:

- **Revisit all current sporadic legal provisions regarding trusts and other legal arrangements in particular with reference to the AML/CFT Law to ensure its effective implementation**

Funded
by the European Union
and the Council of Europe



COUNCIL OF EUROPE



Implemented
by the Council of Europe

Project against Economic Crime (PECK)

www.coe.int/peck

Closing Conference

Pristina, 28 April 2015

AML/CFT Assessment Report

Section 5

Non - Profit Organisations

Funded
by the European Union
and the Council of Europe



EUROPEAN UNION

COUNCIL OF EUROPE



CONSEIL DE L'EUROPE

Implemented
by the Council of Europe

Project against Economic Crime (PECK)

www.coe.int/peck

Strengths and Developments of NGOs Regime

- Comprehensive legislation for registration purposes.
- Adequate coverage of scope of registration.
- Due diligence on founders through checks against lists of designated persons.
- Full Department (DRLNGO) responsible for the implementation of the Law.
- NGOs recognised as reporting subjects - obligations under AML/CFT Law and FIU supervision.
- Concept Note by DRLNGO to strengthen regime.

..... **BUT**

Funded
by the European Union
and the Council of Europe



EUROPEAN UNION

COUNCIL OF EUROPE



CONSEIL DE L'EUROPE

Implemented
by the Council of Europe

Project against Economic Crime (PECK)

www.coe.int/peck

Weaknesses of NGOs Regime

- **Restricted responsibilities of DRLNGO - Ineffective prudential supervision.**
- **Inadequate sanctioning regime – lack of prudential sanctions for certain breaches under the Law.**
- **No assessment of laws and regulations and on risks and vulnerabilities has been carried.**
- **There is little outreach and no legal obligation for authorities to outreach to the NGOs sector.**
- **No empowering legal provisions to collect information for investigative purposes.**

Funded
by the European Union
and the Council of Europe



EUROPEAN UNION

COUNCIL OF EUROPE



CONSEIL DE L'EUROPE

Implemented
by the Council of Europe

Project against Economic Crime (PECK)

www.coe.int/peck

Some general overall Recommendations for NGOs Regime:

- **Create legal provisions on the designation and competences of the 'Competent Body' in the Law on NGOs.**
- **Undertake an assessment of risks and vulnerabilities to which NGOs may be exposed or be exploited for financing of terrorism and implement an outreach programme.**
- **Undertake a strategic assessment to determine which NGOs occupy a significant portion of the financial resources under control of the sector or have a substantial share of the sector's international activities.**

Funded
by the European Union
and the Council of Europe



EUROPEAN UNION

COUNCIL OF EUROPE



CONSEIL DE L'EUROPE

Implemented
by the Council of Europe

Project against Economic Crime (PECK)

www.coe.int/peck

Contact at:

zammith@go.net.mt