



**Assessment of the concrete implementation and effective application
of the 4th Anti-Money Laundering Directive in the EU Member States
JUST/2018/MARK/PR/CRIM/0166**

Project Summary

Project title	Assessment of the concrete implementation and effective application of the 4 th Anti-Money Laundering Directive in the EU Member States
Project area	European Union Member States
Budget	EUR 691,000
Funding	European Union / Council of Europe
Implementation	Economic Crime and Cooperation Division (ECCD), Action against Crime Department, Directorate General Human Rights and Rule of Law, Council of Europe
Duration	24 months

I. Background

The Assessment of the concrete implementation and effective application of the 4th Anti-Money Laundering Directive in the EU Member States is performed within the framework of a Service Contract between the European Union and the Council of Europe concluded on 24 July 2019. The project is expected to be finalised in 24 months (July 2021). The assessment process builds upon the significant expertise of the Council of Europe in the monitoring and cooperation in the area of anti-money laundering and counter-terrorist financing to undertake an analysis of the effective implementation of a selection of the EU-specific measures by the EU Member States (Directive (EU) 2015/849).

A number of exercises undertaken in the recent years by the ECCD were focused particularly on the issues of compliance with the 4th AMLD. This included legal reviews of legislation and its technical conformity with 4th AMLD requirements (e.g. as carried out in the Project on Controlling Corruption through Law Enforcement and Prevention in Moldova) as well as broader comprehensive reviews of the entire legislative and institutional framework vis-à-vis compliance with the full range of 4th AMLD provisions, including issues of their effective implementation (e.g. as completed under the Project against Economic Crime in Kosovo).

The current process of the assessment of the effective implementation of select provisions of the Directive (4th AMLD) by all EU Member States is undertaken for the first time on such a vast scale. It will be conducted on the basis of a dedicated methodology developed by the Council of Europe in view of fully reflecting the EU approach to the prevention of money laundering and terrorist financing in addition to the FATF standards in the area.

II. Action Approach in the Assessment

The assessment process will provide the European Commission with analysis on the adequacy of the implementation of the AML/CFT rules in the Member States. The assessment will be focused on the outcomes achieved by the legal framework and assesses the extent to which the objectives set by the 4th AMLD are actually reached. The proposed assessment will be carried out for each European Union Member State resulting in the delivery of separate country reports. An EU overall report covering the main findings and trends across all EU Member States will be prepared and made available upon completion of the full cycle of the reports for each EU Member State.

For each Member State, the Council of Europe will assess if there are any systemic issues impacting the effective implementation of the provisions; if there are any legal requirements and practices and procedures outside the scope of the 4th AMLD transposition that impact the effective implementation of the AML/CFT measures and represent an obstacle to the mitigation of the risks of money laundering and terrorist financing; inquire and assess if there are any practices, arrangements or workflows compensating regulatory loopholes resulting from the non-compliance or partial compliance of the transposition.

The assessment will focus on the following themes based on the respective 4th AMLD provisions:

- i. Risk assessment, internal control and group policies (Articles 8, 45, 46);
- ii. Customer Due Diligence (Articles 13.1, 14, 18 (1-3), 20, 21, 22, 23, 25, 26, 27, 28, 29);
- iii. Transparency of beneficial ownership information and beneficial ownership registration (Articles 30-31);
- iv. Functioning of the FIU (Article 32);
- v. Suspicious transaction reporting (Articles 33, 34, 35, 36, 46.2);
- vi. Practical arrangements in terms of record-retention (Article 40 with AML relevance caveat);
- vii. Supervision of financial institutions and designated non-financial businesses and professions (Articles 47-48, excluding 48.4);
- viii. National cooperation and coordination (Article 49 - without covering the Law Enforcement agencies);
- ix. International cooperation between FIUs and supervisors (Articles 45.4, 48.4, 48.5, 52-57, 58.5);
- x. Sanctions for non-compliance (Articles 58-59).

The assessment process will maintain a transparent and dialogue-based approach with Member-States, e.g. in cooperating with the assessed countries on the application of the assessment platform and any relevant amendments thereof, in providing the opportunity to supply additional clarifications or information prior to the on-site visits, as well as comments to draft reports (Member State feedback).

III. Overall and Specific Objectives

The overall objective of the process will be detecting and analysing any systemic issues affecting the effectiveness of the implementation of the AML/CFT measures at the level of the European Union, as well as discerning good practices in the AML/CFT risk mitigation to serve as a basis for the EU and Council of Europe further action to strengthen the overall effort against economic crime and ensure a coherent application of the measures to combat money laundering and terrorist financing in the EU context in order to effectively address the supranational nature of ML/TF risks.

This would be achieved through the elaboration of separate comprehensive analytical reports for each EU Member State as well as the EU overall transversal analysis at the end of the process.

IV. Implementation Arrangements

As a key actor in the AML/CFT area, the Council of Europe's Economic Crime and Cooperation Division (ECCD) is in charge of implementing the activities under the assessment process. For the purpose of implementing various specific activities, the Division engages international experts with demonstrated experience in the field of AML/CFT prevention and evaluation of the application of the measures and would additionally rely on close cooperation with the assessed countries to ensure high quality of the outputs.

The consistency of the outcomes for the different Member States will be ensured by the common methodological approach using dedicated data gathering instruments and focused on-site visits to all Member States by teams comprising experts and members of the ECCD Secretariat providing substantive input. The methodology would be complemented as a result of the inception phase of the process and the cooperation with the first assessed countries. Taking into account the novelty of the assessment mechanism, a training for the main experts will facilitate its uniform application.

V. Contact

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