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ANNUAL REPORT (Jan-Dec 2015)
ON
PREVENTION OF INFORMAL ECONOMY, MONEY
LAUNDERING, TERRORIST FINANCING AND FINANCIAL
CRIMES IN KOSOVO 2014-2018

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1. EXECUTIVE SUMMARY

Background

Informal economy, economic and financial crimes, including money laundering, financing of terrorism and corruption are factors that cause serious damage to the economy and negatively affect the welfare of society as a whole. These harmful phenomena differ in nature and extent, depending on economic developments, therefore, it is important to be provided accurate and comprehensive information to contributors and the public as order to raise their awareness and information about the undertaking of preventive policy by the highest institutional level.

The Government of the Republic of Kosovo, which by the approval of the National Strategy and Action Plan of the Republic of Kosovo for the prevention and combating the informal economy, money laundering, terrorist financing and financial crimes 2014-2018 (hereinafter referred to as the National Strategy and Action Plan 2014-2018), has undertaken actions for the implementation of the action plan which has had positive effects on the economy. The Strategy and Action Plan are based on the findings of the report on national risk assessment which identified six key objectives, such as:

1. Raising awareness of the impact on the informal economy and financial crimes
2. Strengthening the prevention and combating against the grey economy and financial crimes by enhancing transparency, accountability, good governance and social partnership
3. Promotion of intelligence procedures, investigation, prosecution, judicial, and enforcement of money laundering, terrorist financing and other financial crimes
4. Strengthen the capacities of relevant institutions
5. Developing and applying a pro-active approach towards international cooperation in the prevention of money laundering, terrorist financing and financial crimes
6. Development of national legislation in accordance with international standards and ensuring its effective implementation

In order to address these objectives, the action plan is drafted initially with 51 activities which are in the process of implementation. Among the 51 activities, activity 2.1.1 of the Action Plan of the National Strategy 2014-2018 requires to draft the situation reports, based on facts, focusing on the informal economy and financial crimes in Kosovo, on a regular 6 monthly basis, to support relevant institutions not only in strategic and operational planning, but also in raising awareness amongst society through communication.

The Annual Report 04/2015 on Prevention of Informal Economy and Financial Crimes in Kosovo covers the activities performed and results achieved during the period 01.01.-31.12.2015.

Methodologies

The Secretariat¹ has established the Situation Report 01/2014, 2/2014, annual report 03/2014 and annual report 04/2015 by utilising direct and indirect methods and paying attention to subjective and objective criteria. The Situation Report 3/2014 is approved by the Governmental Working Group².

Direct methods have included interviews and meetings. The objective has been to acquire information concerning subjective criteria from both operational and management level of organizations representing public, private and third sectors.

Indirect methods have consisted of analyses of the previous assessment and analysis reports, statistics and the legal framework. The goal has been to acquire information concerning objective criteria.

In this Situation Report 4/2015 the Secretariat has collected information, carried out an analysis, prepared findings, drawn conclusions and established a set of recommendations.

Analysis and findings

The Government of Kosovo has established a mechanism for drafting, revision, adoption, implementation and monitoring of the National Strategy and Action Plan 2014-2018.

Regarding the implementation of the National Strategy and Action Plan 2014-2018, during 2015 institutions have completed (4) activities while (5) activity is in process of implementation. Other activities have not yet started to be implemented. It should be emphasized that the progress achieved in the implementation of the strategy has been tremendous, and from the beginning of implementation of the Action Plan in 2014, the Secretariat has managed to accomplish around 76% of the Action plan, thus completing 2 objectives (Objective 1 and Objective 3) out of 6 Objectives in total.

National Strategy 2014-2018 includes an instrument for monitoring and revision, as an annex, which requires from responsible institutions that the results of the implementation of the National Strategy and Action Plan 2014-2018 to be reported on a regular basis using the instrument "Monitoring and Revision of activities" which is included in the Annual Situation Report no. 04/2015 Annex 2.

During the implementation of activities, the Secretariat in collaboration with other relevant institutions, has identified weaknesses that pose a threat to the implementation of the National Strategy and Action Plan

¹The Secretariat is established by the Ministry of Finance based on the National Strategy of the Republic of Kosovo for the Prevention of and Fight Against Informal Economy, Money Laundering, Terrorist Financing and Financial Crimes 2014-2018. Its tasks are to support the Government through the Governmental Working Group in drafting, reviewing, amending and monitoring the National Strategy and Action Plan 2014-2018.

² Ibid.

2014-2018. These vulnerabilities are mainly related to the strategic objectives of the Action Plan (2 and 5) as follows:

- Objective 2: Strengthening the capacity of relevant institutions; and
- Objective 5: Development and application of a pro-active approach towards international cooperation for the prevention of money laundering, terrorist financing and financial crimes.

Based on the National Strategy and Action Plan 2014-2018, during the reporting period, the Ministry of Finance, through the Secretariat, has continued to receive information concerning the operative results of the administrative, law enforcement and judicial authorities. The Secretariat has analyzed the information covering the reporting period January-December 2015, data which focuses on the prevention of informal economy and the criminal procedure on financial crimes. Since the beginning of the Strategy enforcement in 2014, it is evident that the operative results of the relevant have developed positively, however, there are certain threats and vulnerabilities which constitute risks for the efficiency and transparency. The most challenging phases of the process are prosecution as well as the use of temporary sequestration and confiscations judgments. This is due to the incomplete and inconsistent information on performance.

Conclusions and recommendations

In order to prevent realization of the strategic and operational risks, the Secretariat has established conclusions and recommendations for the Government. They focus on the following areas:

1. In accordance with the Annex 1 of the activity 2.4.1 of the Action Plan of the National Strategy 2014-2018, the Secretariat shall continue to be provided with information on six monthly basis to the information concerning operative performance and results of the authorities responsible for the prevention of informal economy and criminal procedure on financial crimes;
2. In accordance with activity 2.4.11 of the National Strategy Action Plan 2014-2018, for making an assessment of needs for the Joint Training, Strategy and Public, Private or third Sector Program, the prevention and detection of informal economy, and the creation of quality training program by KP. requires the definition and allocation of the 30,000 EUR budget for implementation of the training program for the prevention of money laundering, terrorist financing and financial crimes;
3. Ensure the Governmental budget for the financial year 2016 and onwards includes national level goals concerning prevention of informal economy and criminal procedures on financial crimes for the responsible administrative, law enforcement and judicial authorities; and
4. Ensure that administrative, law enforcement and judicial authorities responsible for the prevention of informal economy and for the criminal procedure on financial crimes prepare performance plans for the financial year 2016 and onwards including precise institutional level objectives, their implementation measures and key performance indicators concerning prevention of informal economy and the criminal procedure on financial crimes. The objectives of the institutional level performance plans should be derived from the goals of the Governmental budget

2. INTRODUCTION

Establishing the Annual Situation Report no. 04/2015 is based on the activity 2.1.1 of the National Strategy Action Plan of the Republic of Kosovo to prevent and combat the informal economy, money laundering, terrorist financing and financial crimes 2014-2018. These policy documents were approved by the Government of Kosovo on 28.1.2014.

The objectives of the Situation Report no.04/2015 are as follows:

- Support relevant public, private and third sector institutions in factual strategic and operational planning and decision making;
- Provide information about the focus areas of the specific risk assessments, surveys, researches and studies on prevention of informal economy and financial crimes;
- Enhance communication and awareness amongst society on prevention of informal economy and financial crimes;
- Provide fact based information for the international organizations and media as regards informal economy and financial crimes in Kosovo and the available prevention mechanisms.

The annual situation report, which is compiled annually, contains aggregated information of the semi-annual reports regarding the implementation status of the National Strategy and Action Plan 2014-2018. The implementation results of the process are defined in the Instrument for Monitoring and Review, which is included in the Annual Report 04/2015 as Annex 1.

The report also contains information on the situation and the actual developments in terms of operating performance and results in the prevention of financial crime and the informal economy based on the objectives and key performance indicators set out in Annex 1 of the National Strategy Action Plan 2014-2018.

The findings report on the prevention of financial crime and informal economy in Kosovo was drafted by the Secretariat³ established by the Ministry of Finance, which report was approved by the Government Working Group⁴. The annual situation report 04/2015 covers the performed activities and results achieved during the period 1.1.-31.12.2015.

³The Secretariat is established by the Ministry of Finance based on the National Strategy of the Republic of Kosovo for the Prevention of and Fight Against Informal Economy, Money Laundering, Terrorist Financing and Financial Crimes 2014-2018. Its tasks are to support the Government through the Governmental Working Group in drafting, reviewing, amending and monitoring the National Strategy and Action Plan 2014-2018.

⁴Government working group headed by the Minister of Finance and other members of the leadership level are: MJ, MIA, MTI, MLSW, KP, KC, TAK, Chief State Prosecutor, CBK, Supreme Court, Anti-Corruption Agency and FIU..

3. OBJECTIVE, METHODOLOGY AND DEFINITIONS

3.1. *Objective*

The Government of Kosovo approves the National Strategy and Action Plan of the Republic of Kosovo 2014-2018. The purpose of the annual situation report 04/2015 is to provide the Government, other contributors within the regime of prevention as well as society as a whole, the information on the status of implementation of the National Strategy and Action Plan 2014-2018.

The purpose of the annual situation report 04/2015 is to also provide an analysis of the informal economy and money laundering, terrorist financing and other financial crimes in Kosovo. On the other hand, the same includes information concerning the operating results of the administrative, law enforcement and judiciary authorities that are responsible for preventive measures in the fight against these harmful phenomena.

Moreover, through this report is intended to provide information to the Government and other contributors in identifying new crime trends and phenomena, as well as best practices regarding the prevention of the informal economy and financial crime.

3.2 *Methodology*

3.2.1 Contributors

The Government of the Republic of Kosovo is responsible with the support of the Governmental Working Group for the adoption, revision, and implementation and monitoring of the National Strategy and Action Plan 2014-2018. They are assisted by the Secretariat which has been established by the Ministry of Finance.

The Secretariat shall draft the Situation Report every three (3) months for the approval of the Governmental Working Group.

The Secretariat is chaired by a representative from the Ministry of Finance. The other members are representatives from:

- Ministry for European Integration;
- Kosovo Police;
- Kosovo Customs;
- Kosovo Tax Administration;
- Kosovo Financial Intelligence Unit;
- Kosovo Prime Minister's Office;
- National Coordinator for Economic Crimes Enforcement;;
- Ministry of Justice.

3.2.2 Direct Methods

3.2.2.1 *Meetings and Interviews*

During 2015 were organized around 4 meetings, 3 meetings of the Secretariat and 1 meeting of the Government Working Group, where topics of these meetings were related to the nature and extent of the informal economy, money laundering, financing of terrorism, economic and financial crimes and the status of implementation of the National Strategy and Action Plan.

The members of the Secretariat have also interviewed representatives of the relevant institutions. Results of these meetings have been taken into account when analysing the current situation and preparing the Situation Report 04/2015.

3.2.3 Indirect Methods

Indirect methods consists of the collection and analysis of previously produced analyses and evaluation reports, risk assessments and statistics concerning strategic and operative performance. There are some shortcomings in the quality of the statistics because not all relevant authorities have submitted required information, and or have been deficiencies in their completion.

3.3 *Definitions*

Informal economy

Informal economy consists of informal grey economy and informal black economy.

Informal grey economy

Informal grey economy consists of activities that are productive and legitimate but are deliberately concealed from the public authorities to avoid payment of taxes and/or social security contributions or complying with regulations. The income from the informal grey economy should be taxed. This definition is consistent with that of the OECD.⁵

Informal black economy

Black economy consists of proceeds of crime. It includes those productive activities that generate goods and services prohibited by law or that are unlawful when carried out by unauthorized producers. This definition is consistent with that of the OECD.⁶

Money laundering

⁵Measuring the Non-Observed Economy – A Handbook’, OECD, 2015.

⁶Ibid.

Money laundering means⁷any conduct for the purpose of disguising the origin of money or other property obtained by an offence and includes:

1. The conversion or any transfer of money or other property derived from criminal activity;
2. The concealment or disguise of the true nature, origin, location, movement, disposition, ownership or rights with respect to money or other property derived from criminal activity.

Terrorist Financing

Terrorist Financing means⁸the provision or collection of funds, by any means, directly or indirectly, with the intention that they should be used or in the knowledge that they are to be used, in full or in part, in order to carry out any of the offences within the meaning of Article 138 of the Criminal Code of Kosovo and within the specific definitions provided in the FATF Recommendations..

Financial crimes

Financial crimes include economic and financial crimes defined by the National Risk Assessment Working Group.⁹

⁷Article 2 of the Law No. 03/L-196 on the Prevention of Money Laundering and Terrorist Financing, 2010.(approval of the law in 2010)

⁸Ibid.

⁹List of economic and financial crimes defined by the National Money Laundering and Terrorist Financing Risk Assessment Working Group, 2013.

4 ANALYSIS AND FINDINGS CONCERNING PREVENTION OF INFORMAL ECONOMY, MONEY LAUNDERING, TERRORIST FINANCING AND ECONOMIC AND FINANCIAL CRIMES

4.1 Development of regime for combating the gray economy and financial crimes in Kosovo

The Republic of Kosovo has a wide range of instruments for combating the gray economy and financial crimes. Drafting of legislation, specialized authorities, policies and strategies for combating the gray economy and financial crimes have had a positive impact in company and also on the effectiveness of preventive measures.

Government measures for the prevention of information economy have had a positive effect and therefore the total amount of revenues collected has constantly improved. On the other hand, financial crimes have been detected and investigated and involved persons have been prosecuted and convicted. Furthermore, criminal procedure offers information that can be used during the planning and implementation of the measures of prevention and awareness raising by focusing on the informal economy and financial crimes.

Responsible institutions have developed mechanisms for the prevention of financial crime and informal economy. These activities include measures to achieve further developments in the following areas:

- It is important to resume with further development of the doing business environment in the country which would prevent the informal economy, and would increase the competitiveness reflecting positively in attracting the foreign investments. Regarding this action, the Kosovo Government has adopted a strategy for the development of the private sector, notably SMEs, 2013 - 2017 which aims to develop a competitive private sector. Tax Administration of Kosovo and Kosovo Customs has an important role in the prevention of the informal economy. Both of them have increased revenue collection and have continued the activities of preventing the informal economy by developing the risk assessment mechanisms, awareness raising activities and organizational structures;
- Prevention of money laundering and terrorist financing requires that Kosovo Central Bank and Financial Intelligence Unit of Kosovo to have effective internal procedures, cooperative and well-functional arrangements with public, private or third sector. And both these agencies have developed internal working processes and their organizations are effective in prevention of the informal economy, by increasing awareness, establishing instructions and establishing secondary legislation for the third sector. Furthermore, they have developed their supervisory functions where Kosovo Central Bank and the Financial Intelligence Unit of Kosovo signed a memorandum of understanding to ensure the continuation of their bilateral cooperation. This action has resulted in joint inspections in the financial sector in order to prevent money laundering and financing of terrorism.
- The primary responsibility for criminal proceedings for financial crimes rests with the Kosovo Police, Kosovo Customs, Tax Administration of Kosovo, Kosovo Prosecutorial Council and Kosovo Judicial Council. Effectiveness of law enforcement and judicial competence is developed by creating a new Criminal Procedure Code, Penal Code and the Law on Enhanced Powers for the Confiscation of the Property Acquired from Criminal Acts. These legal instruments include tools which are based on international standards and which provide effective mechanisms for criminal proceedings on financial crimes. Concerning the organizational structure of the Kosovo Police, Tax Administration of Kosovo and Kosovo Customs, they have developed their organizations in

accordance with established operational requirements. Tax Administration and Customs of Kosovo have intensified their functions uniting their investigative functions in order to combat the informal economy and economic crimes. It is worth mentioning that during 2015 Kosovo Customs, Tax Administration and Police have established a joint unit for tracing and confiscation of assets obtained from crime, in order to assist in the coordination of activities in combating economic crimes.

- Furthermore, in 2015 "comprehensive cooperative agreement" was signed between institutions and law enforcement agencies in order to exchange information, risk assessment, and effective coordination in combating the gray economy and economic crimes.
- Establishment of the inter-institutional group between institutions and law enforcement agencies for the targeting of top serious cases of financial crimes and corruption.

4.2 Implementation of the National Strategy and Action Plan 2014-2018 from 01.1.-31.12.2015

4.2.1 Creation of mechanisms for implementation and oversight

National Strategy 2014-2018 identifies the obliged institutions and their responsibilities with respect to drafting, reviewing, approval, implementation and monitoring of the Strategy and Action Plan. It also describes the processes that should be applied when performing these activities.

Contributors set out in the National Strategy 2014-2018 are the Government of the Republic of Kosovo Ministry of Finance, Government Working Group, the Secretariat, Technical Working Group, and public sector institutions, private or third sector responsible for implementation of National Strategy and Action Plan 2014-2018. All of these are activated by these measures:

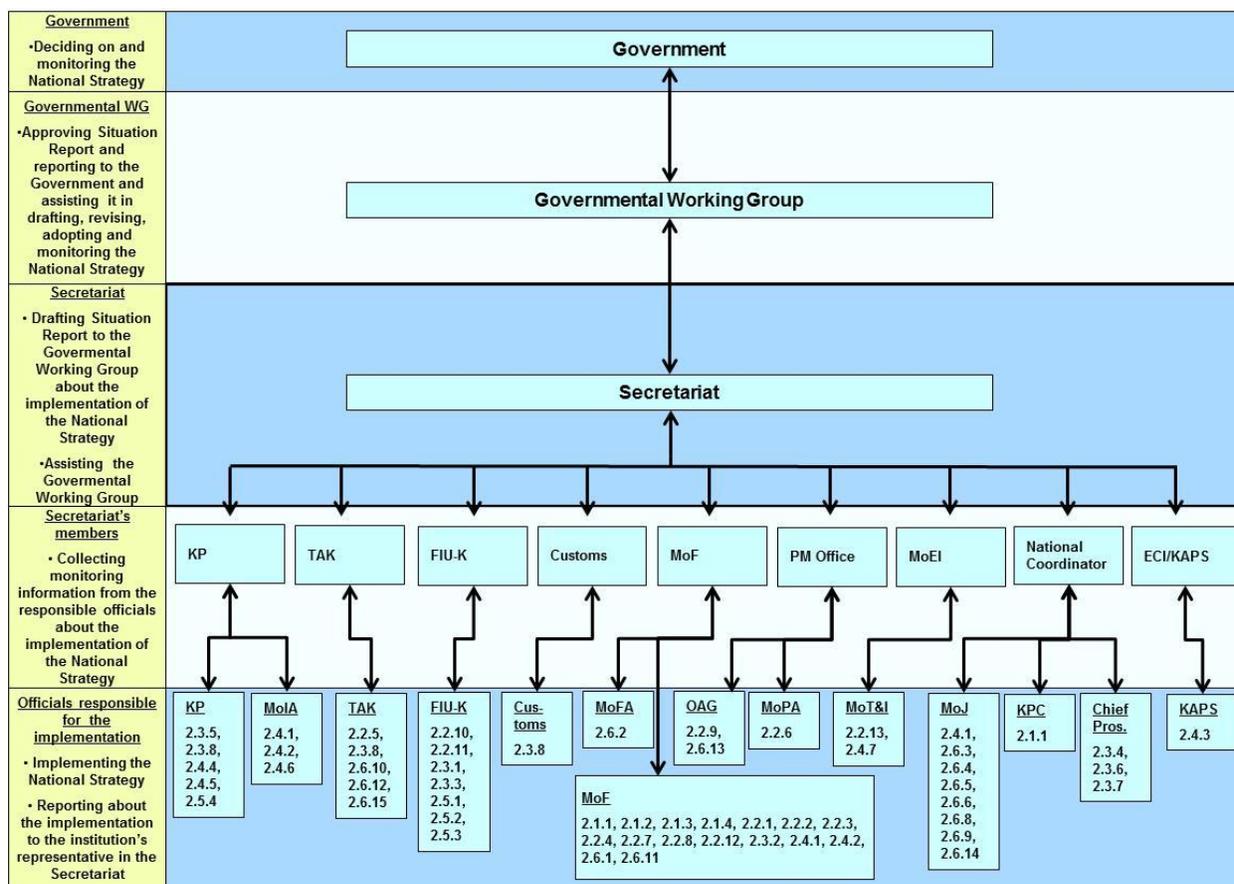
- Minister of Finance, as representative of the Government of the Republic of Kosovo, has invited the Working Group composed of representatives from government ministries and agencies set forth in the National Strategy 2014-2018 at its third meeting on 26.06.2015, with the aim of approving the annual report 2014
- The Secretariat continued with the organization of meetings and workshops for monitoring the implementation of the Strategy AP, and analyzed data in order to prepare the annual report,
- Reporting the results of the implementation process of the National Strategy and Action Plan 2014-2018 has continued by utilizing the the Instrument for monitoring and review of the National Strategy of the Republic of Kosovo for prevention and combating the informal economy, money laundering, terrorist financing and financial crimes 2014-2018 which is an annex of the National Strategy 2014-2018,
- During 2015, the responsible institutions have already completed (4) activities, and have initiated around (5) activities prescribed in the Action Plan of the National Strategy 2014-2018,
- The Secretariat has compiled an annual situation report by which the government working group will report to the Government of the Republic of Kosovo on the implementation of the National Strategy and Action Plan 2014-2018 using the aforementioned Instrument of monitoring and review and to provide information on the results of operational activities concerning prevention and criminal proceedings against the informal economy and financial crime;
- The Secretariat has actively participated in implementing the PECK project to identify shortcomings and the key recommendations of the final assessment reports regarding the

Compatibility of Kosovo with international standards in the areas of fight against corruption, prevention of money laundering and financing terrorism, held on 28 April 2015 in Pristina.

- Ministry of Finance and FIU initiated amendment of the law on money laundering and terrorist financing, as a result, a working group is established for drafting a concept paper for the review and amendment of the law on money laundering conform the FATF standards.

The mechanism for drafting, revision, adoption, implementation and monitoring of the National Strategy and Action Plan 2014-2018 is described in the process chart below.

Chart 1: Chart of the process of implementation and supervision of the National Strategy and Action Plan 2014-2018



Source: Secretariat and the project team of the EU 2014

4.2.2 National Strategy and Action Plan 2014-2018 and the status of their implementation

4.2.2.1 General

National Strategy 2014-2018 consists of altogether six (6) strategic objectives which are considered essential when managing risks related to the informal economy and money laundering, terrorist financing

and other financial crimes. The National Strategy Action Plan 2014-2018 includes 51 activities, the implementation of which ensures achieving the objectives and therefore also the management of risks.

The Implementation Status of National Plan and Action Plan 2014-2018 is described below. More specific information on the content of specific actions prescribed in the National Strategy Action Plan 2014-2018 and their implementation status can be found at Annex 1. Annex 1 consists of the monitoring and review instrument which is required to be used in the National Strategy 2014-2018.

4.2.2.2 Raising awareness on the impacts and on prevention of informal economy and financial crime

Implementation Status

Implementation of the National Strategy objective "Raising awareness on the impacts and prevention of informal economy and financial crime" shall be carried by applying all four (4) activities. It implies actions 2.1.1 - 2.1.4 which are contained in the Action Plan. Responsible institutions have implemented all (4) activities.

4.2.2.3. Strengthening the prevention and combating of informal economy and financial crime by enhancing transparency, accountability, good governance and social partnership.

Implementation Status

Implementation of the National Strategy objective "Strengthening the prevention of and fight against informal economy and financial crimes by enhancing transparency, accountability, good governance and societal partnership" shall be carried out by implementing altogether thirteen (13) activities. It implies actions 2.2.1 - 2.2.13 which are contained in the Action Plan. During 2015, institutions have completed (1) activity (2.2.10), while in the process is the activity (2.2.5 and 2.2.11).

Identified risks

Responsible institutions have not reported any risk to the Secretariat regarding the implementation process.

4.2.2.2.1 Promoting intelligence, investigation, prosecution, court and enforcement proceedings on money laundering, terrorist financing and financial crimes

Implementation Status

Implementation of the National Strategy objective "Promoting intelligence, investigation, prosecution, court and enforcement proceedings on money laundering, terrorist financing and financial crimes " shall be carried out by implementing altogether eight (8) activities. It implies actions 2.3.1 - 2.3.8 which are contained in the Action Plan. Responsible institutions during 2015 have been completed (1) activity (2.3.8), and thus the implementation of this objective was concluded in full.

2.1.1.5. *Strengthening of capacities of the relevant institutions*

Implementation Status

Implementation of the National Strategy objective "Strengthening of capacities of the relevant institutions" shall be carried out by implementing altogether seven (7) activities. It implies actions 2.4.1 - 2.4.7 which are contained in the Action Plan. During 2014, the responsible institutions have implemented three (3) activities (2.4.1, 2.4.4 and 2.4.5), while other activities have not even begun to be implemented in 2015.

Identified risks

The Secretariat is collecting information on a monthly basis about the operative results of the administrative, law enforcement and judicial authorities responsible for the prevention of informal economy and financial crimes. This is based on activity 2.4.1 which aims to improve the performance management of the relevant institutions. The Secretariat and the National Coordinator for Economic Crimes Enforcement have noticed that the information about the operative results is incomplete and inconsistent. This especially concerns the prosecution stage and the use of temporary sequestration and confiscations judgments. This constitutes a risk for the implementation of the action 2.4.1.

The Economic Crimes Institute which is responsible for the activity 2.4.3 has reported to the Secretariat that the institute's status has not been defined yet. This constitutes a risk for the implementation of the action 2.4.2. On the other hand, the Economic Crimes Institute has reported to the Secretariat that the Government has not allocated the required 30 000 EUR for the implementation of the Training Program for the Financial Intelligence Unit of Kosovo and Other Institutions Engaged in the Prevention of Money Laundering, Terrorist Financing and Financial Crimes. These two issues constitute risks for the implementation of the actions 2.4.2 and 2.4.3. However, after numerous discussions with leaders of the Kosovo police it is decided that activity 2.4.2. to be undertaken by the Kosovo police which would also provide infrastructure support, and with this consent the role of the Institute for economic crimes is terminated. However, the condition is that the police need funding of 30,000 euros annually, these funds are not allocated for the achievement of this activity which is related to the compensation of trainers for the lecture hours. This action has been reworded and reflected with the revision of the Action Plan 2015-2018.

The institutions responsible for the activities 2.4.1 and 2.4.4 – 2.4.7 of the Action Plan have not reported to the Secretariat any risks as regards the implementation process.

4.2.2.2 *Developing and applying a proactive approach to the international cooperation on prevention of money laundering, terrorist financing and financial crimes.*

Implementation Status

The implementation of the National Strategy's objective "Developing and applying a proactive approach to the international cooperation on prevention of money laundering, terrorist financing and financial crimes" shall be carried out by implementing altogether four (4) activities. It implies actions 2.5.1 - 2.5.4 which are contained in the Action Plan. Responsible institutions have already implemented activities (2.5.3, 2.5.4), while the activities (2.5.1 and 2.5.2) are in the process of implementation.

Identified risks

The process of FIU membership in Egmond group has started in 2013. The procedure for FIU membership involved gathering of Egmond working groups initially in charge for inspection of achievements and for review of legislation. In January 2015, meeting of the Egmond group took place in Berlin, Germany where the head of Kosovo FIU took place. One of the points of discussions in the meeting of the legal group was achievement of the membership by the FIU. One of the recommendations outlined in the meeting was that Kosovo needs to make legal amendments in the law for terrorism financing in accordance with the international best practices, as a precondition for FIU membership in Egmond group.

Government must ensure that the National law on prevention of money laundering and terrorism is in compliance with international standards to confirm that there are no factual obstacles from Kosovo regarding the membership of the FIU in the Egmont Group, and this action should be fulfilled at the latest by June 2016.

Institutions responsible for the activities 2.5.1, 2.5.3 and 2.5.4 of the Action Plan did not report to the Secretariat any additional risk regarding with the implementation process.

4.2.2.2.3 Developing national legislation to comply with international standards and ensuring its efficient implementation

Implementation status

The implementation of the National Strategy's objective "Developing national legislation to comply with international standards and ensuring its efficient implementation" shall be carried out by implementing altogether fifteen (15) activities. They are actions 2.6.1 - 2.6.15 which are included in the Action Plan. The responsible institutions have initiated the implementation of one (1) action (2.6.1). The implementation process of altogether fourteen (14) activities (2.6.2 - 2.6.15) has not started.

Identified risks

The institutions responsible for the activities 2.6.1 - 2.6.15 of the Action Plan have not reported to the Secretariat any risks as regards the implementation process.

4.2.3 Findings

The Secretariat analysed the implementation status of the National Strategy of the Republic of Kosovo for the Prevention of and Fight Against Informal Economy, Money Laundering, Terrorist Financing and Financial Crimes 2014-2018. The findings that have been made on the basis of the information collected from the relevant institution reflecting the achievements during the period 01.01-31.12.2015, and are as follows:

- Institutions responsible for implementation of the National Strategy Action Plan 2014-2018 during 2015 have finalized (4) and initiated activities (5) activities of altogether fifty-one (51) activities.
- It is worth mentioning that by the end of 2015 the number of activities implemented in total is 39 activities of 51 activities in total, which also represents about 76% of the action plan implementation.
- The required information collected on a monthly basis about the operative results and performance of the administrative, law enforcement and judicial authorities responsible for the prevention of informal economy and financial crimes is incomplete and inconsistent. This concerns especially the prosecution stage and the use of temporary sequestration and confiscations judgments. This constitutes a risk for the implementation of the strategic objective “Strengthening the capacity of the relevant institutions” and activity 2.4.1 of the Action Plan;
- Non-accession of FIU-K in Egmont group is attributable to the existence of legal gaps in the law on PML / CFT is considered to constitute a risk for achieving the strategic objective "Application of a pro-active approach towards international cooperation for prevention of money laundry, terrorist financing and financial crimes " and activity 2.5.2 of the action Plan.
- The lack of clear legal provisions in the law on prevention of money laundering and terrorist financing, in terms of reporting the suspicious financing of terrorism constitutes a a risk for the implementation of the strategic objective "Development and application of a pro-active approach towards international cooperation, prevention of money laundering, terrorist financing and financial crimes " and activity 2.5.2 of the Action Plan which has to do with membership of FIU-K in Egmont Group.
- Amendment and supplement of the Criminal Code to include penalization of an accounting offense because the provisions related to accounting offenses are very general. In the Criminal Code should be a specific article under which a person with a legal obligation to maintain book-keeping, his or her representatives , the person who exercises the actual decision-making authority in a society with a legal obligation to maintain ledgers, or the person in charge of bookkeeping / accounting, constitutes a risk for the implementation of activity 2.6.2.
- Ensure effective implementation of international sanctions targeting the terrorism and the financing of terrorism and proliferation of weapons of mass destruction through the revision of the Law on the Implementation of international sanctions, by ensuring the freezing of funds and assets as required under the international sanctions . The Law on Implementation of International Sanctions does not describe into enough detail the enforcement practical measures regarding the freezing of funds and assets, which constitutes a risk to the implementation of activity 2.6.4.
- Shortcomings identified in the Code of Criminal Procedure (Article 90) on initiating of covert and technical measures for the acts of terrorist financing and money laundering, as well as ensuring compliance of the Criminal Code with recommendations TFAF by altering the sanctioning of financing of terrorism and by amending Article 97 of the Criminal Code in order to clearly describe the full use of value-based confiscation, constitutes a risk for the implementation of activity 2.6.5. and 2.6.6.

4.3 Operating Results for the Prevention of informal economy, money laundering, financing of terrorism and economic and financial crimes 2008-2014

4.3.1 Operational objectives set out in the Action Plan of the National Strategy 2014-2018

Annex 1 of the National Strategy Action Plan 2014-2018 consists of key performance indicators for the various stages of the operating process of preventing the gray economy and financial crime. Specific indicators are defined for the following processes:

- Enforced collection of due taxes and customs duty fees;
- Process of Intelligence / intelligence related to money laundering, terrorist financing and other financial crimes;
- Investigation of money laundering, terrorist financing and other financial crimes;
- Criminal prosecution regarding money laundering, terrorist financing and other financial crimes;

4.3.2 Prevention of informal economy

The latest macroeconomic calculations carried out in 2014, an evaluation performed by EU funded Project Team¹⁰, indicated that the informal economy in Kosovo including remittances received by financial institutions was 38.21% of GDP in 2013. As a total value that is equal to 2.035.000.000 €, where in general 30% of this amount is a result of tax evasion. The loss of revenue only from income tax is approximately € 63.720.000 million while remaining part of 8% is from unspecified sources and represents € 441.950.000 million of the total value.

The assessment of the black economy on the total of informal economy is carried using the direct method, and this analysis has shown that a minimum of € 172 million from € 441.95¹¹ million has resulted from the black economy activities. This is the low value considering the characteristics of the operating environment in Kosovo, and therefore it was ascertained that potentially the whole value of € 441.95 million or a large part of it is based on the proceeds of crime.

The total amount of gross budget revenues of the Government of the Republic of Kosovo have increased during the years 2011-2015 from 1,309.9 to 1,492.5 billion euros. Customs revenues have represented 63% of total revenues and taxes revenues 22.4%. The informal economy affects the revenues. It mainly has to do with the funds collected by the Tax Administration, which shows an upward trend in revenue collection.

The informal economy scale in Kosovo is estimated to be at the same level as in other countries of the Western Balkans. Recent assessments in the region covered the period 2008-2013. The scale of the informal economy in Kosovo's neighboring countries differs between 23-38.8% of GDP. The revenue types and their weight in the budget are defined in the table below.

Table 1: Revenue types and their weights in the budget of the Government of Kosovo 2011-2015 (EUR billions)

Type of budget revenue	2011	2012	2013	2014	2015
Customs	948,380	974,124	983,263	1,005,180	1,104,942
TAK	140,458	154,652	159,454	169,492	179,650
Other revenues	221,059	190,427	207,726	191,663	207,881
Total	1,309,898	1,319,203	1,350,444	1,366,335	1,492,474

¹⁰Support for Kosovo institutions in combating the economic and financial crime 'evaluation on the extent of the informal economy in Kosovo. The EU-funded project 132 399 / C / SER / XK 04/12/2014

The total amount of tax revenue has increased systematically since 2011. This is an encouraging trend. However, the tax base should still be broadened, this will impact directly on bridging the 'tax gap' and reducing the informal economy. The above illustrated table shows the trend of revenues from Kosovo Customs and Kosovo Tax Administration. It shows that the trend of revenue has continued to grow over the years and this reflects the continuous efforts of the authorities to increase tax base.

Tax Administration has reported that the total stock of outstanding tax debt in early 2015 was in the amount of Euro 463,795,298.85, and the due debt of Kosovo Customs including excise taxes in the amount of EUR 2,742,266.51. Ongoing efforts to intensify the activities of collecting due taxes will have a positive effect on reducing the informal economy level. The data indicate that the due debt value in 2015 increased compared with 2014, as a result of the debt forgiveness process which has led to TAK to carry a portion of the debt in active side for the purpose of its collection. It is worth mentioning that about 50% of the due debt is made up of social enterprises under PAK administration, public enterprises and budget organizations. Moreover, about one third of the debt is made up of the principal and around 2/3 of the remaining part is created by penalties and interest as a result of the previous legislation where the application of the high interest rates has made the due debt to mark an accelerated growth over the years. The data on the due debt for the period 2013-2015 can be seen in the following table.

Table 2: The value of the due taxes, customs duties and excise (2013-2015)

Type of due debt	The total amount of due debt		
	2013	2014	2015
Taxes	245,000,000 €	275,591,500 €	463,795,298.85 €
Customs and Excise fees	9,134,000.77	9,500,000.00 €	2,742,266.51 €

Source: Kosovo Tax Administration and Kosovo Customs, 2015

4.3.3 Criminal procedure on money laundering, terrorist financing and economic and financial crimes

4.3.3.1 *The process of collecting information (intelligence)*

One of the main functions of the FIU are receiving, research, collection, and analysis of financial information. The financial intelligence unit has continued to generate intelligence reports and disseminate them to the competent authorities with the aim of preventing money laundering and terrorist financing.

The total number of Suspicious Activity Reports (SARs) and the number of received transactions in cash and the number of intelligence reports disseminated by the FIU over the years are presented in the table below:

Table 3: Operative results of the FIU-K 2015

FIU-K's results	2009	2010	2011	2012	2013	2014	2015
Received STRs	38	133	135	202	174	294	398
Received CTRs	284,592	419,615	423,443	480,479	606,778	553,651	617,430
Disseminated reports	47	82	53	49	74	59	94
Compliance Inspections	n/a	n/a	n/a	-	-	35	26

Source: FIU--K, 2015

The number of received and disseminated intelligence reports has increased in 2009-2015, however in 2015 FIU-K has received 617.430 STR or an average of about 51.452 STR per month. This shows an increase of about 12% more than in the previous year (2014: 553.651). Comparing the the RTG-s reports with the previous years, 2015 has marked the largest number of reports, both in number of transactions as well as in the number of submitted reports, but denominated in monetary value, the reporting of cash transactions remained similar to last year, suffering a slight drop of about 3%.

An important development for 2015 accounts the increase in the number of disseminated intelligence reports (94) to the other institutions, marking the highest progress of disseminated reports in the past five years. Compared to the previous year in which a total of 59 reports were disseminated, the year 2015 has resulted in an increase of about 59% at the same time surpassing the the targets set in the performance plan of the FIU-K and key performance indicators of the National Strategy 2014- in 2018, which have preset minimum number of 80 intelligence reports disseminated to the mandated authorities for calendar year 2015.

Supervision of compliance of reporting entities with legal obligations to prevent money laundering and financing of terrorism remains one of the main functions of the Financial Intelligence Unit. Based on the analysis of the compliance risk, inspections are oriented towards those sectors that have the least reported to the FIU-K as exchange, insurance companies and NGOs

4.3.3.2 Preliminary investigations and court proceedings for financial crimes

During the time period of 2008-2014, the total number of initiated investigations concerning financial crimes was highest in 2013. On the other hand, the number of convictions for financial crimes was lowest in 2013. The results were as follows:

Results on the number of initiated investigations for the financial crimes were as follows:

Table 4: Financial crimes recorded by the Kosovo Police, Kosovo Customs and Kosovo Judicial Council 2008-2014

Initiated investigations of the financial crimes	2008	2009	2010	2011	2012	2013	2014	2015
Police	3 043	2 123	2 774	2 914	2 135	3372	2784	2,019
Customs	90	57	64	69	49	165	104	95
Tax Administration	-	-	-	-	-	-	25	56
Total	3 133	2 180	2 838	2 983	2 184	3537	2913	2,170
Convictions of the financial crimes								
	2008	2009	2010	2011	2012	2013	2014	2015
Basic Courts ¹¹	1 391	1 541	1 298	1 318	1 339	1296	1756	3,489

Source: Kosovo Police, Kosovo Customs, Kosovo Tax Administration and Kosovo Judicial Council, 2015

The statistical analysis indicates that in 2015 the most common financial crimes recognized during the pre-trial investigation¹²were:

- Fraud;
- Counterfeiting of currency;
- Purchase, receipt or concealment of goods obtained through the commission of a criminal offence; and
- Unlawful occupation of real estate.

As regards the court proceedings, the most common financial crimes of which the Basic Courts gave convictions¹³ in 2014were:

- Counterfeiting of Currency;
- Fraud;
- Unlawful occupation of real estate
- Smuggling of goods.

4.3.3.3 *Sequestered and confiscated assets*

An effective prevention of financial crimes requires that proceeds of crime are sequestered and confiscated. The Agency for Managing of Sequestered and Confiscated Assets maintains statistics concerning the total number and value of temporary sequestration decisions and confiscation judgments on an annual basis. The agency does not have specified information concerning use of these measures during the criminal

¹¹Basic Courts from 2013 onwards.

¹²Financial crimes recorded by the Kosovo Police, Kosovo Customs, Kosovo Tax Administration and Kosovo Judicial Council, 2008-2014; Secretariat

¹³Financial crimes recorded by the Kosovo Police, Kosovo Customs, Kosovo Tax Administration and Kosovo Judicial Council, 2008-2015; and Secretariat.

procedures on financial crimes. However, the total value of the assets subject to the temporary sequestration and confiscation are as follows.

Table 5: Amount of sequestrated and confiscated funds managed by Agency for Managing of Sequestrated and Confiscated Assets, 2010-2015

Legal measures concerning proceeds of crimes	2010	2011	2012	2013	2014	2015
Temporary sequestration	0 €	41 852,31 €	2 482 903,54 €	1 555 258,43 €	21,256,142.7 €	813,309.40 €
Confiscation	1 720,00 €	26 765,35 €	103 647,57 €	6 700,00 €	26 350.90 €	169,312.70 €

Source: Agency for Managing of Sequestrated and Confiscated Assets, 2015

The available information shows that the total value of the seized revenue increased compared to the same period the 2010 and 2011. However, in 2015 is seen that the value of sequestered assets is relatively low compared to 2014, but higher compared with 2013. At the other hand, it is obvious that the value of confiscated assets in 2015 increased compared with previous years, where the value amounted to EUR 169,312.71 thousand. Notwithstanding, the marked increase, the potential of increased confiscated assets should be higher given that the level of informal economy is relatively high.¹⁴

4.3.4 Findings

The Secretariat analysed operational results of the prevention of informal economy and criminal procedures on financial crimes during 2014. The findings that have been made on the basis of the information collected from the relevant institution are as follows:

- During 2011-2015, customs duties have represented 63% of total revenue and marked an annual average growth of about 3%;
- The total amount of tax revenue was systematically increased during 2011-2015 and represented 22.4% of the total revenues, marking an average growth of about 6%
- The total value of overdue tax debt at 01.01.2015 was 463,795,298.85 EUR and the debt on customs duties and excise was 2,742,266.51 EUR. While the total value of the collected debt in 2015 was 19,598,237.00 EUR by TAK and Kosovo Customs 2,240,321.73 EUR.
- The total number of reports on suspicious received transactions and disseminated intelligence reports from the FIU increased significantly reaching 398 STR respectively 94 disseminated reports in 2015,
- Annual number of financial crimes recorded by Kosovo Police, Kosovo Customs and TAK during 2015 are 2,170, marking a decrease 743 compared to 2014;
- Annual number of convictions of Basic Court concerning the financial crimes has remained steady and marked an increase from 1756 (2014) to 3489 (2015);
- The Net value of sequestrated assets in 2014 has significantly increased reaching the value of 21 256 142,70 EUR, while for 2015 the value of sequestrated assets amounted to 813,309.4 EUR;
- The net value of confiscated assets in 2015 was 169,312.71 EUR.

¹⁴Statistics 2010-2014, Agency for Managing of Sequestrated and Confiscated Assets, 2015

4.4 Operational results of the prevention of informal economy, money laundry, financing of terrorism and financial crimes in Kosovo between January and March 2014

4.4.1 Operational objectives set out in the Action Plan of the National Strategy 2014 - 2018

An appropriate performance management concerning prevention of informal economy and financial crimes requires concrete key performance indicators. Therefore, the process should be divided into different stages to ensure appropriate identification of indicators and measurement of results.

The Action Plan of the National Strategy 2014-2018 consists of key performance indicators for different stages of the operative process concerning prevention of informal economy and financial crimes. The specific indicators are defined for the following processes:

- Enforced collection of due taxes and customs fees;
- Intelligence process concerning money laundering, terrorist financing and other financial crimes;
- Investigation of money laundering, terrorist financing and other financial crimes;
- Prosecution concerning money laundering, terrorist financing and other financial crimes;
- Court proceedings concerning money laundering, terrorist financing and other financial crimes.

4.4.2 Prevention of informal economy

Medium Term Expenditure Framework 2015-2017 envisages two major assumptions that are expected to affect the revenue collection: additional revenues due to the increased volume of real economic activities as a result of forecasting the low level of prices in the mid term period, from successful implementation of the strategy and action plan for preventing and combating the informal economy and the continuous improvement of the environment for doing business as a result of the application of fiscal packages. It is anticipated that the successful implementation of these policies will enable the decrease of the tax gap through continuous formalization of economic activities, which will provide a sustainable budget revenues for the coming years.

Annex 1 of the National Action Plan 2014-2018 Strategy is not consisted of specific objectives for revenue collection. Nevertheless, the results achieved in this regard are an important indicator when measuring the efficiency of the fight against the informal economy. In addition, evaluation of the informal economy level identifies additional measures that will affect on reducing the tax gap. The total amount of revenue collected during 2014 and 2013 in a monthly frequency is as follows:

Table 6: The amount of collected revenues from taxes, customs and other net income January-December 2015 and 2014, in million euros

Budget revenues	Jan-15	Feb-15	Mar-15	Apr-15	May-15	Jun-15	Jul-15	Aug-15	Sep-15	Oct-15	Nov-15	Dec-15	Total
Customs revenues	47.2	52.1	67.5	74.9	76.1	84.0	95.5	95.5	86.4	90.3	81.0	99.7	950.1
TAK revenues	41.1	21.3	22.0	39.7	18.3	20.8	36.5	20.5	27.0	42.4	20.5	24.2	334.5
Other revenues	12.3	11.2	18.3	29.6	11.9	12.6	20.4	11.6	11.8	25.6	10.4	32.1	207.9
Total	100.6	84.6	107.8	144.2	106.3	117.5	152.3	127.6	125.2	158.4	111.9	156.0	1,492.5

Budget revenues	Jan-14	Feb-14	Mar-14	Apr-14	May-14	Jun-14	Jul-14	Aug-14	Sep-14	Oct-14	Nov-14	Dec-14	Total
Customs revenues	45.6	52.5	66.9	68.7	70.9	77.2	81.1	85.9	83.7	80.6	67.0	89.1	869.1
TAK revenues	36.7	18.1	20.6	37.4	18.5	17.7	33.9	19.4	20.7	34.6	19.1	28.9	305.5
Other revenues	17.8	10.8	13.0	21.5	13.6	12.0	15.8	14.4	13.3	24.9	15.4	19.1	191.7
Total	100.2	81.3	100.5	127.7	103.0	106.8	130.8	119.7	117.6	140.1	101.5	137.1	1,366.3

Source: Ministry of Finance, 2015

The total amount of net revenue collected during the period January-December 2015 was 1,492.5 euro, which at the same time is an increase of about 9.2% or about 126.14 million euros more compared to the year 2014. Revenues from TAK have marked an increase of about 9.5 % and revenues from customs increased about 9.3% compared with 2014. Measures undertaken by the tax respective authorities have yielded positive results and this is reflected in higher trend of revenue collection by agencies responsible for collection of revenues.

Annex 1 of the 2014-2018 Action Plan, requires that minimum annual results of enforced collection of due tax should be 90,000,000 Euros and 4,500,000 Euro for due customs and excise fees. Results for the period January-December 2015 were as follows:

Table 7: The amount of enforced collection of due taxes and customs and excise fees, January-December 2015 and January-December 2014

Type of due debt collected	2015												Totali
	Janar	Feb	March	April	May	Jun	July	Aug	Sep	Oct	Nov	Dec	
Taxes	841	754	1,096	799	1,068	1,719	1,336	1,189	1,411	1,108	1,069	7,208	19,598.2
Custom taxes	157.4	149.7	108.9	59.3	187.8	164.8	131.3	89.8	297.8	419.3	276.0	198.2	2,240

Type of due debt collected	2014												Totali
	Janar	Feb	March	April	May	Jun	July	Aug	Sep	Oct	Nov	Dec	
Taxes	4,222	3,417	4,394	3,176	3,732	4,970	3,868	3,616	4,090	4,337	3,875	4,042	47,739
Custom taxes	68	155.1	204.2	126.6	78.3	193.7	0	110.6	152.9	49.8	47.8	331.65	1,518.7

Source: Kosovo Customs and Tax Administration of Kosovo, 2015

Results of the Tax Administration of Kosovo and Kosovo Customs are encouraging but the efforts to collect deferred debts should be intensified. Measures undertaken during 2015 by the two institutions have not produced the expected results based on key performance indicators.

4.4.3 Criminal procedure on money laundering, terrorist financing and economic and financial crimes

4.4.3.1 *Intelligence process*

The FIU-K is collecting, analysing and disseminating financial intelligence. The Annex 1 of the Action Plan 2014-2018 requires that the agency should receive and disseminate a certain number of reports. It is also consisting of objectives concerning the number and value of transactions suspended by the FIU-K. The results of the agency have been as follows:

Table 8: Operative results of the FIU-K January-December 2015

FIU results	Jan	Feb	March	April	May	June	July	Aug	Sep	Oct	Nov	Dec	Total
Received STR	30	22	27	22	64	24	28	24	43	35	21	32	372
Received CTR	43,974	40,478	37,002	51,641	42,557	48,778	50,682	58,117	59,738	55,560	59,997	68,906	617,430
Received reports on terrorism financing	3	2	5	1	2	3	0	1	0	5	2	2	26
Disseminated intelligence reports	6	6	4	5	11	8	8	5	10	4	6	21	94
Suspended transactions	-	-	-	-	-	5	-	-	-	-	-	-	5
Value of suspended transactions	-	-	-	-	-	29,740	-	-	-	-	-	-	29,740

Source: FIU-K, 2015

Results for 2015 show that the FIU has met and exceeded key performance indicators set out in Annex 1 to the action plan of the National Strategy 2014-2018. The number of reports of suspicious transactions compared to last year increased by 34.92%. Also since 2015 it has resulted in an increase of about 59% in the number of intelligence reports distributed to other authorities, thus surpassing the targets set in the plan performance of the FIU-K.

It should be emphasized that beside the many difficulties in terms of number of staff and logistical support (workspaces), and also none acceptance in Egmont Group, the FIU has managed to demonstrate a very good performance during the year 2015 which is reflected also in the achievements listed in the table above.

4.4.3.2 *Pre-trial investigations on financial crimes and temporary sequestrations*

The Annex 1 of the Action Plan 2014-2018¹⁵ sets objectives for the pre-trial investigation of financial crimes. They include key performance indicators for the Kosovo Police, Kosovo Customs and Kosovo Tax Administration in respect of the minimum number of initiated investigations where the estimated value of proceeds of crime is 5 000 EUR or more, net value of the property which is the target of temporary sequestration measures, minimum number of financial crime investigations (value of proceeds of crime 5

¹⁵National Strategy and Action Plan of the Republic of Kosovo for the Prevention of and Fight Against Informal Economy, Money Laundering, Terrorist Financing and Financial Crimes 2014-2018.

000 EUR or more) which are closed and forwarded for the consideration of charges as well as the average investigation time for financial crimes.

The results concerning the number of initiated investigations on financial crimes have been as follows:

Table 9: Financial crimes recorded by the Kosovo Police, Kosovo Customs and Kosovo Tax Administration January -December 2015 and January-December 2014

Initiated investigation on financial crimes	2015											
	Jan	Feb	March	April	May	June	July	Aug	Sept	Oct	Nov	Dec
Police	151	166	168	168	166	149	181	129	166	218	182	175
Customs	3	9	12	13	9	20	5	3	4	6	5	6
TAK	1	0	7	4	3	0	18	5	3	4	1	10
Total	155	175	187	185	178	169	204	137	173	228	188	191
Initiated investigation on financial crimes	2014											
	Jan	Feb	March	April	May	June	July	Aug	Sept	Oct	Nov	Dec
Police	358	267	272	241	239	241	180	228	199	197	159	203
Customs	12	10	26	12	11	9	2	5	7	3	2	5
TAK	3	2	4	0	4	3	2	0	3	1	3	0
Total	373	279	302	253	254	253	184	233	209	201	164	208

Source: Kosovo Police, Kosovo Customs and Tax Administration, 2015

The statistical analysis indicates that there are no substantial changes as regards the total number and types of the most common financial crimes recorder by the Kosovo Police, Kosovo Customs and Kosovo tax Administration between January and December 2015 compared to 2014. The typical financial crimes recognized during the pre-trial investigation¹⁶were:

- Counterfeiting of Currency;
- Fraud;
- Unlawful occupation of real estate; and
- Smuggling of goods..

It can be concluded that the law enforcement authorities have begun to focus on more serious offences when revealing financial crimes.

The available information concerning the number of financial crimes forwarded for the consideration of charges is defined in the table below:

¹⁶Financial Crimes recorded by the Kosovo Police, Kosovo Customs and Tax Administration, 2014; and Secretariat.

Table 10: Financial crimes forwarded for the consideration of charges by the Kosovo Police, Kosovo Customs and Kosovo Tax Administration, January-December 2015 and January-December 2014

Closed investigation of financial crimes forwarded for the consideration of charges	2015												Total
	Jan	Feb	March	April	May	June	July	Aug	Sept	Oct	Nov	Dec	
Police	44	71	60	55	56	82	92	84	105	100	78	66	893
Customs	1	1	10	7	9	4	2	10	1	2	9	7	63
TAK	0	0	3	0	1	2	0	2	1	0	2	0	11
Total	45	72	73	62	66	88	94	96	107	102	89	73	967

Closed investigation of financial crimes forwarded for the consideration of charges	2014												Total
	Jan	Feb	March	April	May	June	July	Aug	Sept	Oct	Nov	Dec	
Police	26	20	21	35	25	29	23	55	32	88	30	70	454
Customs	3	6	12	15	11	9	1	2	6	4	1	4	74
TAK	0	1	2	1	1	3	1	1	1	1	0	1	13
Total	29	27	35	51	37	41	25	58	39	93	31	75	541

Source: Kosovo Police, Kosovo Customs and Kosovo Tax Administration, 2015

Asset tracing is an essential part of the criminal procedure concerning financial crimes. Therefore, the Action Plan 2014-2018¹⁷ sets objectives for the pre-trial investigation stage as regards temporary sequestration measures. The results for 2014-2015 have been as follows:

Table 11: Net value of assets sequestrated in investigations of the Kosovo Police, Kosovo Customs and Tax Administration, January-December 2015 and January-December 2014.

Net value of temporarily sequestrated property	2015												Total
	Jan	Feb	March	April	May	June	July	Aug	Sept	Oct	Nov	Dec	
Police	25,960	205,326	97,383	772,076	50,704	2,585,247	1,296,867	1,390,523	1,099,644	5,700	397,120	253,011	8,179,561
Customs	261	14,130	5,380	23,774	349,811	91,432	31,389	22,389	-	15,145	16,178	-	569,888
TAK	-	-	-	-	13,779.7	-	-	-	-	-	-	-	13,780
Total	26,221	219,456	102,763	795,850	414,295	2,676,679	1,328,255	1,412,912	1,099,644	20,845	413,298	253,011	8,763,229

Net value of temporarily sequestrated property	2014												Total
	Jan	Feb	March	April	May	June	July	Aug	Sept	Oct	Nov	Dec	
Police	11,100	76,914	22,193	-	300,000	-	-	-	234,659	78,838	1,180	23,136	748,020
Customs	8,901	9,055	-	121,202	10,000	-	-	20,823	154,869	7,043	-	55,030	386,923
TAK	-	-	-	-	-	-	-	-	-	-	-	-	-
Total	20,001	85,969	22,193	121,202	310,000	-	-	20,823	389,528	85,881	1,180	78,166	1,134,943

Source: Kosovo police, Customs and TAK, 2015

In 2015, the total amount of temporarily sequestered assets according to the Agency for Management of Sequestered and Confiscated Assets was EUR 1,934,299.65. The results of the law enforcement authorities

¹⁷National Strategy and Action Plan of the Republic of Kosovo for the Prevention of and Fight Against Informal Economy, Money Laundering, Terrorist Financing and Financial Crimes 2014-2018.

for 2015 has exceeded the performance indicators in undertaking measures for the temporary sequestration of assets where the total value amounts to 8,763,229 EUR, by marking also a significant increase compared to 2014 where the total value of the seizure was 1,006,779 EUR.

4.4.3.3 *Consideration of charges for financial crimes and temporary sequestrations*

The objectives for the prosecution stage as regards financial crimes have been identified in Annex 1 of the Action Plan 2014-2018 . They include key performance indicators for the State Prosecutors in respect of the minimum number of indictments (value of proceeds of crime is 5 000 EUR or more per crime), average time used for the consideration of charges for financial crime, minimum net value of the property which is the target of the temporary sequestration measures and minimum gross value of the requests for confiscation included in the indictments.

Comprehensive and reliable information concerning the operative results of the State Prosecutors is not available. Statistics which have been submitted to the Ministry of Finance and National Coordinator for economic crimes related to the objectives of the prosecution phase in Annex 1 of the Action Plan 2014-2018 are not compatible, and in some cases is identified that there are no statistics at all.

4.4.3.4 *Convictions for financial crimes and confiscation judgements*

The Annex 1 of the Action Plan 2014-2018¹⁸ sets objectives for the court proceedings concerning financial crimes. They include key performance indicators for the Basic Courts in respect of the total minimum number of judgments concerning financial crimes in which the estimated value of proceeds of crime is 5 000 EUR or more, the average time used for court proceedings per calendar year concerning financial crimes and the total minimum gross value of confiscation judgments.

The Secretariat chaired by Ministry of Finance have been provided with the information concerning the total number of convictions concerning financial crimes and the results for 2015 are as follows:

Table 12: Convictions for financial crimes by the Basic Courts January-December 2015

Convictions for financial crimes	2014	2015
Basic Courts	1 756	3 489

Source: Kosovo Judicial Council, 2015

In 2014, the total number of convictions for financial crimes was 1,756, and in 2015 this figure reached 3489 cases. It can be concluded that the productivity of basic courts has increased in 2015 to 1733 cases. Nevertheless, this figure of 3489 cases also includes resolving of the backlog of cases from the previous years. Statistical analysis indicates that there are some changes regarding the types of the most common

¹⁸National Strategy and Action Plan of the Republic of Kosovo for the Prevention of and Fight Against Informal Economy, Money Laundering, Terrorist Financing and Financial Crimes 2014-2018.

financial crimes defined in the convictions imposed by basic courts in the period January-December 2014 compared to 2013. The typical financial crimes recognized during court proceedings¹⁹ were:

- Abuse of official duty;
- Smuggling of goods;
- Tax offence;
- Unlawful occupation of real estate; and
- Bribery.

For the prevention of financial crimes it is essential to be confiscated the proceeds of financial crime. However, the information concerning the use of this provision are not available as can be seen below.

Table 13: Gross value of confiscation judgements by the Basic Courts January-December 2015

Gross value of confiscation judgements	2014	2015
Basic Courts	N/A	N/A

Source: Kosovo Judicial Council, 2015

Currently, it is not possible to evaluate the functionality of the confiscation mechanism. The only sources for the relevant statistic are the law enforcement authorities, prosecutors and Agency for Managing of Sequestrated and Confiscated Assets. It would be important for the Government and operational authorities to get information about the gross value of confiscation judgements. This would assist them in evaluating the efficiency of the process chain as a whole starting from the asset tracing and ending with the enforcement of confiscation judgements.

4.4.3.4 Management of sequestrated and confiscated assets

The Agency for Managing of Sequestrated and Confiscated Assets maintains statistics concerning the net value of temporarily sequestrated and confiscated assets. The results have been as follows:

¹⁹Quarterly Statistics, Kosovo Judicial Council, 2015.

Table 14: Value of sequestrated and confiscated assets managed by Agency for Managing of Sequestrated and Confiscated Assets January-December 2015

Type of due debt collected	2015												
	Janar	Feb	March	April	May	Jun	July	Aug	Sep	Oct	Nov	Dec	Total
Taxes	841	754	1,096	799	1,068	1,719	1,336	1,189	1,411	1,108	1,069	7,208	19,598.2
Custom taxes	157.4	149.7	108.9	59.3	187.8	164.8	131.3	89.8	297.8	419.3	276.0	198.2	2,240
Type of due debt collected	2014												
	Janar	Feb	March	April	May	Jun	July	Aug	Sep	Oct	Nov	Dec	Total
Taxes	4,222	3,417	4,394	3,176	3,732	4,970	3,868	3,616	4,090	4,337	3,875	4,042	47,739
Custom taxes	68	155.1	204.2	126.6	78.3	193.7	-	110.6	152.9	49.8	47.8	331.65	1,518.7

Source: Agency for Management of sequestrated and confiscated assets, 2015

According to the Agency for Management of Sequestrated and Confiscated Assets, the total amount of temporarily sequestered assets in 2014 was EUR 23,556,143 and the value of confiscated proceeds of crime was 26 352 EUR. Results for 2015 indicate an increase of confiscated assets compared with 2014, the value of the confiscated assets this year was about 169.313 Euros, while for those sequestered was 813.309 Euros. However, 2015 shows a decrease of confiscated value compared to 2014 (see table 14).

It can be concluded as well, that statistics of the Agency for Managing of Sequestrated and Confiscated Assets for 2015 concerning the value of the temporarily sequestered assets are not in line with the information provided by the law enforcement authorities and prosecutors. The reasons for the difference in these statistics should be assessed and the application of the law by law enforcement and judicial authorities should be enhanced to ensure an effective management of sequestrated assets in accordance with the existing legislation. However, actions are undertaken that are underway and are related to the law on money laundering which has passed the draft concept paper stage. The law in question is expected to be in compliance with international standards and at the same time is expected to be approved during 2016.

4.4.4 Findings

The Secretariat analysed operational results of the prevention of informal economy and criminal procedures on financial crimes during January-December 2015. The findings that have been made on the basis of the information collected from the relevant institution are as follows:

- The amount of gross tax revenues collected is 1,492.5 billion euros, marking an increase of 9.2% in total revenues collected during 2015 compared to 2014;
- The total amount of the enforced collection of due taxes and customs fees was 21,838,558.73 Euros;
- FIU-K has received 617.430 cash transactions reports (CTR) and 372 suspicious transactions reports (STRs). The unit has disseminated a total of 94 intelligence reports to mandated authorities, which means that the total number has reached certain targets in key performance indicators.
- The Kosovo Police, Kosovo Customs and Kosovo Tax Administration have recorded altogether 2,170 financial crimes marking a decline compared to 2014.

- The most common financial crimes recorded by the law enforcement authorities have been counterfeiting currency, frauds, unlawful occupation of real estate and smuggling of goods;
- The total value of temporarily sequestered assets by the Kosovo Police, Kosovo Customs and Tax Administration has been EUR 8,763,230;
- A complete and reliable information on operational results in terms of objectives concerning the prosecution stage set out in Annex 1 of the Action Plan 2014-2018 is not available
- The total number of Basic Court's convictions of the financial crimes has been 3.489, which marks an increase compared to 2014.
- The most common financial crimes defined in the convictions of the Basic Courts have been abuse of official duty, smuggling of goods, tax offence, unlawful occupation of real estate and bribery;
- The gross value of Basic Courts' confiscation judgments is not available;
- The total value of the temporarily sequestrated assets managed by the Agency for Managing of Sequestrated and Confiscated Assets has been 813.309 euros.
- The total value of the confiscated assets managed by the Agency for Managing of Sequestrated and Confiscated Assets has been 169.313 euros;
- Statistics of 2015 of the law enforcement authorities and prosecutors concerning the value of temporarily sequestered assets are not in line with the information of the Agency for Sequestered and Confiscated Assets;
- As regards the monitoring of the implementation of the National Strategy and Action Plan 2014-2018 and performance management concerning the criminal procedure on financial crimes, the most challenging phases are prosecution and the use of temporary sequestration and confiscations judgments. This is due to the incomplete and inconsistent performance information.

5 CONCLUSIONS AND RECOMMENDATIONS CONCERNING PREVENTION OF INFORMAL ECONOMY, MONEY LAUNDERING, TERRORIST FINANCING AND ECONOMIC AND FINANCIAL CRIMES

5.2 Implementation of the National Strategy and Action Plan 2014-2018

5.2.1 Conclusions and recommendations

The Government of the Republic of Kosovo and the responsible public, private and third sector institutions have initiated the implementation of the National Strategy and Action Plan 2014-2018. The activities are mainly in line with the requirements and timetables defined in these policy documents. However, there are altogether three (3) risks which could be managed based on the national level measures. They are related to the implementation of the strategic objective “Strengthening the capacity of the relevant institutions”.

The Government of the Republic of Kosovo should enhance implementation of the National Strategy and Action Plan 2014-2018, efficiency and transparency of the prevention of informal economy and financial crimes and awareness, skills and capacities of the public, private and third sector institutions as regards the fight against these harmful phenomena. It is therefore recommended that the Government ensures that:

1. The responsible and defined authorities provide the Ministry of Finance, Secretariat and the National Coordinator for Economic Crimes Enforcement on a 3 monthly basis with the required information concerning their operative performance and results as specified in Annex 1 of the activity 2.4.1 of the Action Plan of the National Strategy 2014-2018. This measure is necessary to enhance efficiency and transparency of the prevention of informal economy and financial crimes and to ensure implementation of the National Strategy and Action Plan 2014-2018;
2. Allocation of budget for the Kosovo Police for implementation of the activity (2.4.3) in order to enable the creation, implementation and evaluation of a training program by the Kosovo Police in cooperation with FIU and other institutions engaged in the prevention of money laundering , terrorist financing and financial crimes. This measure is necessary to enhance awareness, skills and capacities of public, private and third sector in the prevention of the informal economy and financial crime and to ensure the implementation of the National Strategy and Action Plan 2014-2018.
3. Amendment of the Criminal Code to also include penalization of an accounting offense because the provisions related to accounting offenses are very general. The Criminal Code should contain a specific article on the basis which a person with a legal obligation in order to maintain accounts, his or her representative, the person who exercises the actual decision-making authority in a society with a legal obligation to keep ledgers, or the person in charge of bookkeeping / accounts.

5.3 Operative performance

5.3.1 Conclusions and recommendations

Annex 1 of the activity 2.4.1 of the Action Plan of the National Strategy 2014-2018 defines objectives and key performance indicators for the administrative, law enforcement and judicial authorities responsible for the prevention of informal economy and financial crimes. The implementation process of these measures has been started and the initial results are promising. However, there are certain vulnerable stages in the process chain due to the incomplete and inconsistent performance information. This especially concerns prosecution and the use of temporary sequestration and confiscations judgments. Therefore, the performance management mechanisms of the relevant institutions should be developed and production and dissemination of the information needed for the evaluation of their performance should be ensured and regularized to enhance efficiency and transparency of the processes.

It is recommended that the Government of the Republic of Kosovo enhances the efficiency and transparency of the prevention of informal economy and financial crimes by ensuring that:

1. The Governmental budget for the financial year 2016 includes the national level objectives concerning prevention of informal economy and criminal procedures on financial crimes for the responsible administrative, law enforcement and judicial authorities; and
2. The administrative, law enforcement and judicial authorities responsible for the prevention of informal economy and for the criminal procedure on financial crimes prepare for the financial year 2016 performance plans. These plans should include precise institutional level objectives, their implementation measures and key performance indicators concerning prevention of informal economy and the criminal procedure on financial crimes. The objectives of the institutional level performance plans should be derived from the goals of the Governmental budget and therefore their drafting should be initiated simultaneously with the Governmental level budget for the financial year 2016.