

REGULATORY COMPLIANCE UPDATE



AML/CTF REGULATION

06.2023

For particularly significant violations, the license of UAB "PAYRNET" was revoked, and a bankruptcy case was initiated



[LINK](#)

The Bank of Lithuania has revoked the license of an electronic money institution UAB "PAYRNET," due to numerous and severe violations of legal acts, such as the AML/CTF Law, Law on Electronic Money and Electronic Money Institutions, Law on Payments. As a result, UAB "PAYRNET" is prohibited from providing any financial services and must return funds to its customers within a specified period. The Bank of Lithuania plans to initiate bankruptcy proceedings against the institution and may involve law enforcement authorities in the process.

The institution's operational model primarily relied on intermediaries, with financial services provided through 90 agents, distributors, or other entities. UAB "PAYRNET" failed to conduct proper due diligence and assessment of these intermediaries, including their suitability, reputation, and risk. The institution lacked control over how the intermediaries performed AML/CTF functions delegated to them, institution did not perform trainings to intermediaries, failed to comply with the requirement for periodic training of intermediaries, audits of their activities or other types of assessment.

Transactive Systems UAB receives a fine and license revocation



[LINK](#)

The Bank of Lithuania has issued a EUR 280 000 fine and revoked the license of an electronic money institution Transactive Systems UAB for gross and systematic non-compliance with the AML/CTF requirements. The investigation conducted by the BoL uncovered numerous violations committed by Transactive Systems UAB. The company failed to properly identify customers, their representatives and beneficial owners, opened anonymous accounts, failed to ensure adequate monitoring of business relationships and transactions, did not have control measures to detect cases of terrorist financing. In addition, Transactive Systems UAB has failed to ensure proper implementation of international financial sanctions and restrictive measures, and its monitoring and verification systems were ineffective.

Decisions of the Financial Market Supervision Committee of the Bank of Lithuania



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The Bank of Lithuania has issued a EUR 30 000 fine to an electronic money institution "Finci" UAB for non-compliance with the AML/CTF requirements.

According to the BoL, "Finci", UAB failed to ensure that enhanced due diligence is applied before entering into cross-border correspondent relationships with third-country financial institutions and customers registered or residing in high-risk third countries.

The BoL has also found deficiencies in international sanctions compliance.

EBA Report on ML/TF Risks Associated with Payment Institutions



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The European Banking Authority has released a report on the risks of money laundering and terrorist financing associated with European Union payment institutions. The report indicates that the ML/TF risks within the sector may not be effectively assessed and managed by the institutions and their supervisors. The findings of the EBA's assessment suggest that, in general, institutions in the payment sector do not adequately manage ML/TF risks. The internal controls for anti-money laundering and counter-terrorism financing (AML/CFT) within payment institutions often fall short of preventing ML/TF activities. Additionally, the EBA's report indicates that not all competent authorities are currently taking sufficient measures to effectively supervise the payment institutions sector. The use of agents by payment institutions carries a significant inherent ML/TF risk, especially in a cross-border context.

Virtual Assets: Targeted Update on Implementation of the FATF Standards on Virtual Assets and Virtual Asset Service Providers



[LINK](#)

FATF provides its fourth report on the global implementation of the FATF's Standards on VAs and VASPs, in particular the Travel Rule. It provides an overview of the global implementation of the Travel Rule; outlines challenges in implementing the FATF Standards; shares suggested solutions or progress made by the public and private sectors; and provides an overview of emerging risks relating to VAs and how jurisdictions and industry are responding to these risks.

Decisions of the Financial Market Supervision Committee of the Bank of Lithuania



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The Bank of Lithuania has issued a EUR 125 000 fine to an electronic money institution UAB "Nexpay" for non-compliance with the AML/CTF requirements. The BoL has found that the company did not take appropriate measures to determine the source of funds and wealth of high-risk customers (such as crypto-service providers) nor did it apply ongoing enhanced due diligence measures. Transaction and business relationship monitoring procedures were insufficient, ongoing due diligence process did not ensure that the transactions carried out by the customers corresponded to the information available to the company. The Company has failed to analyse or analysed formally part of the transactions, including complex and unusual transactions, transactions without a clear economic or legal purpose, crypto-related transactions. In addition, the BoL has found deficiencies in UAB "Nexpay" enterprise-wide risk assessment, customer risk assessment, customer identification procedures, ongoing due diligence, internal control systems.



info@proventuslaw.lt

Detailed Compliance and full Regulatory report on AML/CTF regulation can be found here:

Our recommendations and details are in this file



REGULATORY COMPLIANCE UPDATE



The letter of expectations on the enhancement of operational management, internal control and



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compliance culture of electronic money institutions and payment institutions published by The Bank of Lithuania.

The Bank of Lithuania published a letter of expectations on the enhancement of operational management, internal control and compliance culture of electronic money institutions and payment institutions. Institutions are strongly encouraged to familiarize themselves with expectations published by the Bank of Lithuania. Please pay attention to certain requirements laid down in the following legal acts which are mandatory to comply with in the Institution's day-to-day operations. The topics identified by the Bank of Lithuania cover:

- Ensuring proper governance requirements
- Implementation of the risk management requirements
- Timely implementation of own funds requirements
- Requirements for applying the method for the calculation of own funds requirement
- Compliance with the equity capital requirements set forth in the Law on Companies
- Compliance with the requirements for safeguarding customer funds
- Outsourcing of operational functions
- Notifications about members of management bodies of financial market participants and persons who have acquired a qualifying holding in the authorized capital and/or voting rights
- Management of money laundering and terrorist financing risks.

Proposal by the Bank of Lithuania



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The Bank of Lithuania has proposed amendments to the law to establish administrative arrangements for the application of sanctions.

The draft amendment to the Law on the Bank of Lithuania proposes to establish that the application of a sanction for violations of legal acts may be completed if an administrative agreement is concluded between the Bank of Lithuania and a financial market participant or a natural person to whom the sanction is to be applied. The conclusion of an administrative agreement would reduce the amount of the fine for the infringement by 30%. The agreement could be concluded within two months of the date of the proposal for an administrative agreement.

It is envisaged that administrative agreements would not be concluded if, for example, it is suspected that the actions of a financial market participant or person were intentional or the violations are permanent, if the positions of the Bank of Lithuania and the other party to which the sanction is intended to be applied are radically different.

Announcement from the Bank of Lithuania



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The Bank of Lithuania warns electronic money and payment institutions of the responsibility, possible consequences and necessary control measures when they use agents or e-money distributors in their activities.

Licensed institutions are required to develop internal procedures for the control of their agents or e-money distributors (including how ML/TF and other compliance risks will be managed and how the requirements of international sanctions will be implemented), and to ensure that these procedures are effectively implemented in practice. To manage the risks, institutions need to be fully prepared before they start providing services through agents or e-money distributors.

It is equally important that in each individual case a licensed institution would assess whether what the financial market participant refers to as white label (where a product or service created by one entity is branded by another) is not intermediation, e-money distribution or outsourcing, as such a business model is often interpreted differently by different financial market participants. According to the assessment of the Bank of Lithuania, a white label business model usually has the characteristics of agency relationship. If electronic money or payment institutions have so far treated the white label model as a outsourcing to other persons, they should assess the compliance of this model with the legislation. If it has the characteristics of intermediation, institutions should apply to the Bank of Lithuania for the use of e-money distributors or the inclusion of agents in the public list.

REMINDER ON REPORTING

Please make sure that by 1st of June you have submitted the reports to State Tax Inspectorate as per deadlines indicated in the excel reporting calendar.

This includes:

- Reporting on client's annual turnover, if the total annual turnover of all accounts held by the same person with the same financial market participant is at least EUR 15,000;
- Reporting on client's balance, if the total annual balance of accounts of the same person with the same financial market participant at the end of the year is not less than EUR 5,000;
- The debt obligations owed to a financial market participant as at 31 December of the calendar year.

Please make sure that by 1st of July you submitted the reports to State Tax Inspectorate on reportable account.

As well, please be aware that the second quarter has ended, meaning the following reports had to be submitted. This includes:

- Statistical Payment data and Statistical data on Fraudulent Payments
- Reports for supervision of the implementation of money laundering and terrorist financing prevention measures;
- Financial reports (at all times be aware of the capital adequacy requirements).

Detailed and full Regulatory Compliance report on Payment Services, other institutions rendering payments, regulation can be found here:

Our recommendations and details are in this file



Information from the Migration Department under the Ministry of Interior of the Republic of Lithuania



[LINK](#)

The Migration Department informs that from July 1, the procedure for applying for national visas for foreigners outside Lithuania is changing. Until now, foreigners not in Lithuania could submit such requests to a Lithuanian diplomatic mission, consular office or a visa center abroad chosen by the Ministry of Foreign Affairs.

After July 1 changes, all applications for issuing national visas will have to be submitted only through the MIGRIS system on the website of the Migration Department, where when filling out an application for a national visa, it will be necessary to choose one of the 34 centers of the external service provider company "VFS Global" operating in foreign countries, through which documents for obtaining a visa will be submitted.

Our recommendation:

To employ foreigners in Lithuania, we recommend that you also pay attention to the fact that after July 1, visas will not be issued to: foreigners who come to work when their profession is included in the list of missing jobs; For foreign workers who have a work permit issued by the Employment Service; For citizens of Australia, the United Kingdom, the United States of America, New Zealand, South Korea, Canada and Belarus, who until now received national visas in a simplified manner; For foreigners who have applied for the issuance or replacement of a residence permit or a family member card of an EU citizen; For foreigners for whom the Migration Department has decided to issue a residence permit or a family member card of an EU citizen. These foreigners will have to apply for a temporary residence permit in Lithuania.

Information from the State Labour Inspectorate of the Republic of Lithuania



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The State Labour Inspectorate reminds employers that the Labour Code stipulates the employer's duty to inform employees about working conditions.

Before the start of work, the employer must provide the employee with information about the description or description of the work function or the name of the job (duty or duties, profession, speciality) and, if established, its hierarchical and/or qualification or complexity level (degree).

Our recommendation:

To comply with Lithuanian laws, we recommend that companies prepare detailed descriptions of job functions for the positions in the company, which could be described in the employment contract or job descriptions. Before hiring an employee, we offer a signed introduction to his job functions.





Confederation of European Data Protection organisations published a FAQ Guide for AI and Personal Data.



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The news: the Confederation of European Data Protection Organization's AI and Data Working Group has prepared guidance for DPO's who are encountering the intersection of their work with AI and machine learning software. Whilst the Guide is tailored for DPO's, the Guide aims to address the fundamental questions and risks associated with AI, assist in applying data protection principles, and highlight the forthcoming EU Artificial Intelligence Act, making it useful for other parties, e.g., legal teams of companies and organisations.

VDAI publishes FAQs on use of EU SCCs.



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The news: the VDAI has published a FAQ on the use of SCC's. The short guidance answers 4 of the most common questions related to SCC's:

- When do the standard contractual clauses apply?
- Are standard contractual clauses binding?
- Can additional provisions be included in the agreements between the parties concerning standard contractual clauses?
- Are the Standard Contractual Clauses appropriate for data transfers to third countries?

VDAI adopts recommendations on the safe use of mobile applications on mobile devices



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The news: the VDAI has published its recommendations for the safe use of mobile applications on mobile devices. Whilst tailored for data subjects, the recommendations cover a wide range of topics, including:

- what personal data mobile apps typically collect,
- who may be affected and what threats may arise from the information collected,
- informing the user about the collection of their data,
- how to better ensure the security of your personal data in mobile applications.

Swedish DPA fined Spotify EUR 4,900,000 for insufficient fulfilment of data subjects' rights.



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The violation: an investigation into the company's data subject's rights implementation was launched following several complaints and a lawsuit from NOYB. The investigation revealed that Spotify had not adequately fulfilled data subject rights. For instance, Spotify did not provide sufficient information to data subjects regarding the origin of their data or international data transfers. Furthermore, Spotify failed to provide understandable information, such as technical processes, in the native language of the data subjects; instead, it was only available in English.

EDPB adopts the final version of Guidelines on the calculation of administrative fines.



LINK

The news: following a public consultation, the final version of the Guidelines on the calculation of administrative fines have been supplemented by an annex with a reference table summarising the methodology of fine calculation and two examples of the practical application. The Guidelines aim to harmonise the calculation of fines issued by DPA's for GDPR violations.

Spanish DPA fined PELAYO, MUTUA DE SEGUROS Y REASEGUROS A PRIMA FIJA EUR 42,000 for insufficient technical and organisational measures to ensure information security.



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The violation: the controller inadvertently disclosed the complainant's personal data to unauthorized third parties due to an internal error. The DPA determined that the controller had not implemented sufficient technical and organizational measures to safeguard personal data.



info@proventuslaw.it

Detailed and full Regulatory Compliance report on PERSONAL DATA PROTECTION REGULATION can be found here:

Our recommendations and details are in this file





EU adopts 11th package of sanctions against Russia for its continued illegal war against Ukraine



[LINK](#)

The Council of the European Union adopts the 11th package of sanctions against Russia.

The 11th package consists of the following key elements:

Trade Measures:

- New anti-circumvention tool: this will allow the EU to restrict the sale, supply, transfer or export of specified sanctioned goods and technology to certain third countries whose jurisdictions are considered to be at continued and particularly high risk of circumvention.
- Extension of the transit prohibition for certain sensitive goods.
- Prohibition to sell, license, transfer or refer intellectual property rights and trade secrets.

Transport Measures:

- A full ban on trucks with Russian trailers and semi-trailers from transporting goods to the EU.
- Prohibition to access EU ports for vessels.
- Prohibition to access EU ports for vessels if a vessel does not notify the competent authority.
- Prohibition to access EU ports for vessels which manipulate or turn off their navigation.

Energy measures:

- End of the possibility to import Russian oil by pipeline.
- Insertions of strict and very targeted derogations to the existing export bans.
- Extension of the exception to the oil price cap.

Additional listings:

- Over 100 additional individuals and entities subject to asset freezes.

Decisions of the Financial Market Supervision Committee of the Bank of Lithuania



[LINK](#)

The Bank of Lithuania has issued a EUR 55 000 fine to an electronic money institution Wittix, UAB for non-compliance with the international financial sanctions' requirements and AML/CTF measures. Another electronic money institution UAB "Nuvei" has received a warning for non-compliance with the international financial sanctions' requirements.

Fine to Wittix, UAB

During the audited period, Wittix's sanctions policy and internal control procedures had significant shortcomings - the institution did not have the means to determine whether the transactions and operations carried out by the customer fall under the scope of international restrictive measures (determining sectoral, trade, certain service restrictions), did not properly screen transactions and did not apply monitoring system control measures.

Warning to the UAB "Nuvei"

UAB "Nuvei" received a warning because the institution's internal control procedures related to the implementation of international sanctions had shortcomings - they did not provide adequate measures to determine whether the transactions and operations carried out by customers are outside the scope of international restrictive measures. In addition, the international sanctions monitoring system did not ensure proper implementation of international sanctions.

Decisions of the Financial Market Supervision Committee of the Bank of Lithuania



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The Bank of Lithuania fined electronic money institution Via Payments UAB for non-compliance with the international financial sanctions' requirements. The company's internal policies and internal control procedures related to the implementation of international sanctions were significantly deficient as they did not detail the process of implementation of international sanctions.

Lithuania bans transit of dual-use goods to keep them out of Russia



[LINK](#)

The Government of the Republic of Lithuania is imposing a temporary ban on road shipments of dual-use goods that can end up in Russia and Belarus and be used in the war against Ukraine. The temporary ban includes 57 groups of goods, mostly products with microelectronics and semiconductor components. The ban will be valid from July 3, 2023, until January 2, 2024.

NTE 2023/08: Russia sanctions – Trade sanctions circumvention



[LINK](#)

The Department for Business and Trade's Export Control Joint Unit published new guidance on trade sanctions circumvention under the UK's Russia sanctions regime. The purpose of this guidance is to prevent the undermining of trade sanctions, export controls, and other measures implemented in response to Russia's invasion of Ukraine. The guidance emphasizes the need for robust due diligence and awareness of the risks associated with trade in goods subject to UK trade sanctions and export controls.

According to the guidance, the true end-users of procured goods are rarely mentioned in the documentation, as organisations often use layers to conceal their activities.



info@proventuslaw.it

Detailed and full Regulatory Compliance report on Financial and Economic Sanctions can be found here:

Our recommendations and details are in this file





BoL news feed



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BoL proposed a draft amendment defining the terms of the main payment account service. The amendments to the law will ensure sufficient payment services for residents at an affordable price, and a lower administrative burden for credit institutions.

The draft law envisages how the maximum amount of the commission for the main payment account service will be calculated. The commission fee cannot exceed a certain minimum monthly salary, which is determined in such a way that the rate of the main payment account corresponds to the consumer-friendly payment service baskets currently offered on the market. The maximum commission will also be associated with changes in the scope of the main payment account service. Protection of vulnerable people is ensured by providing a free basic payment account service to persons who have been awarded the social allowance for deprived persons.

It is also proposed to create a rate comparison website for small businesses, which provides the rates of relevant payment services in one place.

Our recommendation:

Financial institutions should thoroughly review the proposed amendments by BoL regarding the main payment account service. This involves understanding the specific terms and requirements outlined in the amendment and assessing the potential impact on their current operations. Also, financial institutions should carefully analyze their existing commission structures for the main payment account service. They should compare their current fees with the maximum commission limits defined in the draft amendment. If necessary, adjustments should be made to ensure that the commission fees remain within the specified threshold.

It is recommended to monitor further developments and updates related to the regulatory landscape. Staying informed about evolving regulations, market trends, and customer expectations will allow financial institutions to adapt their practices proactively and maintain compliance with changing requirements.

BoL news feed



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The Centre for Financial Literacy of the Bank of Lithuania has launched a summer information campaign to draw the attention of people to the growing level of fraud. The aim of the campaign is to remind people of the types of fraud, how to recognise them and how to keep their money and data safe.

A representative survey initiated by The Centre for Financial Literacy shows that almost 40% of the population has experienced a scam in the last three years. Fraudsters are using newer and newer ways to empty people's pockets, so the Bank of Lithuania warns all summer holidaymakers that it is very important not to lose vigilance and to take care of the safety of your money and personal data.

Our recommendation:

It is recommended educating clients about scams and frauds. It helps protect them from falling victim to fraudulent activities. By raising awareness about common scams, warning signs, and preventive measures, financial institutions empower their clients to make informed decisions and avoid potential financial losses. This ultimately strengthens the trust between the institution and its clients. By providing the necessary information and resources to identify and report scams, financial institutions contribute to a safer and more secure financial environment. Finally, by minimizing the number of clients who become victims of fraud, financial institutions can relieve the pressure on their customer support services.

Press releases of BEUC



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The European Consumer Organisation (BEUC) and Norwegian consumer organization published a report which sheds light on the many risks of generative AI, on the existing rules which can protect consumers and on which rules still need to be developed.

Consumer protections organisation took attention to these main type of AI risks for consumers - Transparency and accountability, wrong or inaccurate output, using technology to manipulate or mislead consumers, bias and discrimination, privacy and personal integrity, security vulnerabilities.

Our recommendation:

AI use in financial institution services offer several benefits such as improved efficiency, enhanced customer experience, and cost reduction. It could automate tasks, processes data quickly, and provides personalized support. However, there are risks involved, **including data security and privacy concerns, algorithmic bias, lack of human oversight, technical challenges, and regulatory compliance issues.** Financial institutions must prioritize security measures, address biases, maintain human involvement, and ensure adherence to regulations to mitigate these risks effectively.





Law of the Republic of Lithuania on Financial Reporting by Undertakings



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On the 1st of June, the Parliament of the Republic of Lithuania passed changes to the Law on Financial Reporting by Undertakings. The amendments introduce the requirement to disclose income tax information by preparing and submitting the legal entity income tax information report to the Register of Legal Entities. This requirement now applies to:

- Groups of companies or individual companies whose annual consolidated or annual revenue for each of the last 2 consecutive financial years exceeded EUR 750 million on the last day of the financial year.
- Medium-sized and large subsidiaries controlled by the parent company which is not subject to the laws of the Republic of Lithuania or of another Member State of the EU.
- Medium-sized and large subsidiaries controlled by a parent company which is not subject to the law of the Republic of Lithuania or of another Member State of the EU.

This requirement is mandatory for subjects mentioned in points 2 and 3 if the consolidated revenue exceeded EUR 750 million on the last day of each of the last 2 consecutive financial years. The amendments aim to implement the Directive 2021/2101 of the European Parliament and of the Council which is meant to provide a more robust basis for transparency, integrity and social responsibility of big business.

Our recommendation:

These reports shall be prepared for accounting periods beginning on or after 22 June 2024. In Lithuania, around 50 companies will be obliged to prepare and/or publish this report, the template for which has been established by the European Commission. Furthermore, this report in its entirety will have to be published on the website of the Company, the subsidiary or the parent company. The report will have to be accessible by the public for free. The income tax information reports will have to be signed by the Manager of the Company or a person designated to fulfil the disclosure requirements in the branch. The Manager of the Company/Manager of the parent company/members of the management and supervisory bodies will be accountable for the accessibility of the report on the Company website.

During the audit, the auditor or the audit firm shall verify whether, corporation's income tax information report was made available to the public and shall state this in the auditor's report.

We recommend to the subjects falling under the scope of this regulation to prepare for the financial year of 2024 by ensuring compliance with the newest requirements. While the changes do not provide for the possible liability for failure to submit the forms, the Ministry of Finance did comment on the possible ways to regulate the liability for repeat failure (administrative fines).

The European Court of Human Rights Judgement of 13 June 2023 Case of UAB Braitin v. Lithuania



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On the 13th of June, The European Court of Human Rights passed two judgments related to the procedure of the Investor assessment conducted by the Commission for Coordination of Protection of Objects Important to National Security. In *Braitin v. Lithuania*, UAB „Braitin“ requested, in accordance with the established procedures, an evaluation of the Investor's compliance with national security. The decision on the compliance declared the applicant to be incompatible with the interests of national security on account of its UBO's links with persons close to the Lukashenko regime. The applicant company complained that it had been denied its right to a fair trial under Article 6 of the Convention because the courts had relied on classified evidence which had not been disclosed to the applicant and which the applicant had not been able to challenge, in violation with the Adversarial and equality of arms principles. The ECHR considered the whole process and assessed whether the limited disclosure of evidence in the Commission's decision was compensated for by the subsequent administrative court proceedings. The ECHR found that the restriction of the applicant company's rights was outweighed by other procedural safeguards. It was able to participate effectively in the proceedings and to question witnesses, including members of the Commission and representatives of the State Security Department involved in the proceedings. The classified evidence was not decisive for the proceedings as there were other publicly available documents on which the decisions were based. In the ECHR's view, there was no evidence that the decisions taken were arbitrary or disproportionate. Therefore, there was no violation of Article 6(1) of the Convention. On the same grounds, no violation of Article 6(1) of the Convention was found in the case of *UAB Ambercore DC and UAB Arcus Novus v. Lithuania*, 13 June 2023, in a case in which the applicants complained about the lack of guarantees to a fair trial. in the context of an appeal against the Commission's decision to declare the applicant company UAB Arcus Novus as having links to the Russian Security Service which raised concerns regarding national security. ECHR found that the non-disclosure of classified information on which the Commission based its conclusions and non-disclosure during proceedings before the administrative courts were sufficiently outweighed by other procedural safeguards. The applicant companies also complained of a violation of their property rights due to the loss of investment without obtaining the necessary authorisations. ECtHR noted that the applicant companies could not have had a legitimate expectation that they would be allowed to successfully develop and complete the investment before the verification procedure had been completed successfully.

Our recommendation:

We would like to stress the importance of the procedure of the evaluation of the Investor's compliance with national security which is conducted by the Commission for Coordination of Protection of Objects Important to National Security. Investors before making investments in the financial sectors deemed of importance to national security should pass the evaluation by the Commission.