

3.1.4 Implement bankruptcy legislation through alignment with EU acquis, simplification of procedures, insolvency policy measures and streamline processes through digital tools

Summary of checks performed by relevant authorities on the steps for which funding is requested, including weaknesses identified and any corrective actions taken

In accordance with the national legal framework on public internal control, financial management and internal audit, the RGF Regulation and the applicable Commission Implementing Decision, the competent authorities conducted a comprehensive verification process for this reform step.

This included the systematic collection and review of relevant evidence by the Ministry of Industry, Entrepreneurship, Trade and Innovation (MIETI), with internal audit units exercising their functions in accordance with their mandate. The checks and verifications were performed through the relevant layers of the control system, including the units responsible for implementation of this reform step, the Reform Agenda coordination unit in MIETI, and the Secretary General of the Ministry.

The Reform Agenda coordination structures within the Office of the Prime Minister carried out additional checks and verifications to ensure the completeness and accuracy of the reported information and supporting evidence.

The step under review	Early warning system established to identify and prevent bankruptcy of SMEs. Early warning system enforced for viable SMEs facing major difficulties and preventive restructuring debt procedures for SMEs in place with 100 SMEs supported
Baseline	No Early warning system that identifies and prevents bankruptcy for SMEs
Deadline of the step	June 2026
Actual results	TAIEX expertise was used to provide advice on the appropriate legal basis for establishing an early warning system to identify and prevent bankruptcy of SMEs in Kosovo. The expert submitted the final report on 17 June 2026. In the final report, the expert recommended transposing the provisions of Directive (EU) 2019/1023 on the early warning mechanism into Law No. 08/L-256 on Bankruptcy, as this is the most common approach used in EU Member States. If this option is not feasible, the expert recommended introducing the mechanism through another law, such as the Law on Business Organisations, given its nature and relevance to the regulation of business activity, as well as the fact that this law is currently under review. Inter-ministerial discussions and consultations on the appropriate legal basis and institutional arrangements are currently ongoing. Based on the results reported, this reform step had not been fulfilled by June 2026. Progress has been achieved in identifying the appropriate legal basis for establishing the early warning mechanism, including through TAIEX expert support and recommendations on transposition of Directive (EU) 2019/1023. However, the early warning system has not yet been legally established,

	operationalised or enforced, and the target of supporting 100 SMEs has not yet been achieved. Accordingly, the reform remains in progress.
Evidence provided	The following evidence is provided for the reported results of this fiche: 1. TAIEX application form – for implementing second chance directive 2. Report submitted by TAIEX expert
Checks performed in the verification of the step and related findings	During the verification of this reform step, all relevant evidence was reviewed and summarised in the control checklist, while all supporting documents were properly stored to ensure a complete audit trail. The conducted checks and verifications confirmed that: • all required documents, as specified in Annex 1 of the Reform Agenda, were provided and attached to this report; • the submitted evidence is consistent with the description and requirements of the reform step set out in the Commission Implementing Decision; • the submitted documentation confirms the fulfilment of the reform step; • the submitted documentation confirms the period in which the reform step was fulfilled. Based on the checks and verifications conducted, the evidence provided confirms the progress of the reform step and the relevant implementation period. No related findings were identified.
Compliance with general principles and DNSH principle	The implementation of this step does not contravene/contravenes the general principles outlined in Article 4 and 11(4) of Regulation (EU) 2024/1449 and Article 3 of the Facility Agreement. The implementation of this step does not contravene/contravenes the ‘Do No Significant Harm’ principle (DNSH).
Double funding	Contributions from third parties were identified and reported in support of the achievement of this step. In our assessment, this support is in line with the RGF guidelines on double funding.
Clear conclusion on the achievement of the step	Based on the results reported, this reform step has not been fulfilled by June 2026.



TAIEX application form - IPA, ENI, MENA

1. Request

Type of event:

Workshop

Title of the event

Support to establish early warning system identify and prevent bankruptcy of SMEs.

Beneficiary country:

Kosovo

Beneficiary Ministry/Service:

Ministry of Industry, Entrepreneurship and Trade

Date of submission:

30/01/2026

Aim and objective of the request

The objective of this activity is to support Ministry in transposing EU Directive 2019/1023 into our legislation. Given that this mechanism has not previously existed within the legal system of our country, there is a need to engage an experienced expert in this field to conduct an analysis of the Ministry's/Government's legal framework. The purpose of this analysis is to identify the appropriate legislation in which this Directive should be incorporated, as well as to provide concrete recommendations for its implementation, based on European Union best practices and the practices of other countries in the region.

Contact Point:

ENEST-TAIEX@ec.europa.eu

2. Applicant

Person submitting

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Authorisation from your administration

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3. Content

3.1 What will the Member State Expert(s) focus on during this TAIEX event?

Legislation.

3.2 Target audience

The targeted audience consists officials from the Kosovo Investment and Enterprise Support Agency, Industry Department, Kosovo Business Registration Agency, Department for European Integration, Legal Department and Entrepreneurship Department within the Ministry of Industry, Entrepreneurship and Trade and staff of Ministry Justice and Kosovo Judicial Council.

3.3 EU legislation concerned

Which part of the EU laws, rules or best practice should be covered? Please select the (sub)chapter(s). Here you can find more details on the https://enlargement.ec.europa.eu/enlargement-policy/conditions-membership/chapters-acquis_en target=" blank">chapters of the acquis

20 Enterprise and industrial policy [13]

Please select the keyword(s)

Business support,Economic recovery

Indicate relevant EU regulations, directives, strategies, communications etc

Directive (EU) 2019/1023 of the European Parliament and of the Council of 20 June 2019 on preventive restructuring frameworks, on discharge of debt and disqualifications, and on measures to increase the efficiency of procedures concerning restructuring, insolvency and discharge of debt, and amending Directive (EU) 2017/1132 (Directive on restructuring and insolvency)

3.4 Event additional information

Event

Proposed indicative date of the exchange/event:

23/03/2026

Duration (days):

5

Expected number of participants:

15

Main topics/content

The expert engaged for this assignment will be responsible for conducting a comprehensive assessment of the existing legal and institutional framework of the Ministry and the Government related to insolvency, enforcement, company law, and judicial procedures, as well as an evaluation of institutional capacities and practical implementation challenges. Based on this analysis, the expert will identify the most appropriate legislative instruments for incorporating the Directive, including whether transposition should be achieved through a standalone law or amendments to existing legislation. The activity will also result in concrete, actionable recommendations for legislative drafting, institutional coordination, and procedural design, ensuring alignment with European Union best practices and relevant experiences from countries in the region.

3.5 Current situation/justification

This activity represents a priority for MINT and is aligned with the European Union Growth Plan for the Western Balkans. The activity is planned to be realized by June 2026. As this mechanism has not previously existed within the

country's legal system the aim is to identify the most appropriate legislation for incorporating the Directive and to provide concrete recommendations for its implementation.

3.6 Previous TAIEX and Twinning assistance?

No

Please indicate details, and if available indicate the title and number of the assistance. This information is complementary, you can benefit from several TAIEX activities and Twinning projects

3.7 Is there any planned or currently running project financed by EU funds and/or other international programmes dealing with the issues covered by the request? Has any such project been implemented in the last two years?

No

Please provide details, and if available indicate the title and number of the assistance, project/s, programme/s

4. Logistics

4.1 Member State administration(s) from which you wish to receive the expertise (optional):

Preferred Member State (The choice cannot always be guaranteed)

Member State Authority/Institution (if known)

4.2 Do you know the Member State expert from whom you wish to receive expertise (optional)?:

Additional information (if required)

4.3 Beneficiary contact person for administrative questions and practical matters related to this TAIEX event

Title (Ms, Mr):

First Name:

Family Name:

Ministry or Institution:

Function:

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Postcode:

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Country:

Office phone:

Mr

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4.4 Is interpretation required?:

Yes

4.5 Contact person for the evaluation of the impact of TAIEX assistance

Heini.HYRKKO@ec.europa.eu

Please Note:

The information contained in this form will be made available on-line to the Permanent Representation, or Mission of your country in Brussels. All applications received directly from administrations of beneficiaries will be forwarded to the EU Delegation / Office concerned for a preliminary evaluation. This application form has a validity period of two years from the date that it was submitted; TAIEX reserves the right to cancel any event that has not been implemented within the two year period.



Establishing an Early Warning System to Identify and Prevent Bankruptcy of SMEs in Kosovo

Choice of Legislative Vehicle, Institutional Architecture and Methodology for Supporting 100 SMEs

TAIEX Policy Advice - Project No. 93016

Beneficiary: Ministry of Industry, Entrepreneurship and Trade of the Republic of Kosovo (MIET)

Prepared by Neno Rakić, TAIEX Policy Adviser

June 2026

1. Executive Summary

The Republic of Kosovo has committed, under the Reform Agenda adopted in October 2024 within the EU's Reform and Growth Facility for the Western Balkans, to establish an early warning system (EWS) that identifies small and medium-sized enterprises (SMEs) facing financial difficulties and helps prevent their bankruptcy. The commitment is specific and measurable - an early warning system established and 100 SMEs supported by June 2026. This TAIEX advice responds to the request of the Ministry of Industry, Entrepreneurship and Trade (MIET) for guidance on how to deliver that commitment.

This report addresses three questions that the beneficiary identified as decisive. First, which legislative vehicle should carry the early warning system - an amendment to one of the existing laws or a new stand-alone law. Second, how the 100 SMEs should be identified and supported - a practical methodology, adapted to Kosovo's economy, that MIET can formally adopt. Third, which institutions should be involved and what would be their responsibilities.

On the legislative vehicle the Report recommends, after weighing the options objectively, that Kosovo should transpose the early warning obligation by amending the Law No. 08/L-256 on Bankruptcy. This is the dominant model across the European Union - Croatia, Romania, Greece, Italy and Spain all placed their early warning provisions inside the insolvency or bankruptcy law. No EU Member State has adopted a free-standing "early warning law". A stand-alone law is therefore not supported by the European precedent, would take longer to negotiate and adopt and would create an instrument that no institution has a natural reason to own (a serious disadvantage in Kosovo's current administrative climate). Amending Law No. 08/L-256 is faster, owned by the Ministry of Justice that already administers the law and completes a transposition that has been done only partially. The legislative package recommended is deliberately small: a short Early Warning chapter inserted into Law No. 08/L-256 and amendment to the Law No. 08/L-257 on the Administration of Tax Procedures to permit the sharing of defined distress data. Operational system, the programme, the implementing agency and the support measures should be established through Government Decision/Administrative Instruction and secondary legislation rather than through new primary law. **Law No. 06/L-016 on Business Organizations can be amended as a second-best choice.**

On the methodology for the 100 SMEs, the report sets out a complete, practical approach built around three identification channels - self-referral, referral by intermediaries (chambers of commerce, business associations, banks and accountants), and screening of administrative data - followed by a standard support pathway of intake, diagnostic, support plan, delivery and follow-up. The report recommends that the route to the June 2026 target rely principally on self-referral and intermediary referral, with KIESA delivering the support and administrative data added progressively as it becomes available. A clear definition of what counts as a "supported SME" is proposed, so that reporting to the European Commission is unambiguous. Design options for the financial incentives that KIESA is expected to offer are also presented.

On institutions, the report recommends the following architecture:

- **Kosovo Investment and Enterprise Support Agency (KIESA)** as the single implementing agency that runs the system,
- **Ministry of Industry, Entrepreneurship and Trade (MIET)** as the policy owner that designs the measure and reports to the European Commission,
- **Ministry of Justice (MoJ)** as the drafter of the legislative amendments and the law owner,

- **Office of the Prime Minister** as the inter-institutional coordinator, using its existing coordination mandate to secure cooperation,
- **Information and Privacy Agency of Kosovo (IPA)** is the data protection supervisor of the early warning system,
- **Kosovo Business Registration Agency**, the **Kosovo Judicial Council**, the **Tax Administration of Kosovo** and the **Kosovo Pension Savings Trust** as data providers.

2. Background and Mandate

2.1 The TAIEX assignment

This advice is provided through the European Commission's TAIEX (Technical Assistance and Information Exchange) instrument under Project No. 93016, "TAIEX assistance on early warning systems to identify and prevent bankruptcy of SMEs". The beneficiary is the Ministry of Industry, Entrepreneurship and Trade of the Republic of Kosovo. The assignment supports Kosovo's alignment with Directive (EU) 2019/1023 on preventive restructuring frameworks, on discharge of debt and disqualifications, and on measures to increase the efficiency of procedures concerning restructuring, insolvency and discharge of debt - within the framework of the EU Growth Plan for the Western Balkans.

The output requested by the beneficiary is a single advisory report that (a) draws on the experience of EU Member States, in particular on how Member States have legislated for early warning, (b) recommends the national legislation in which the early warning obligation should be placed, (c) provides a methodology for identifying and supporting the 100 SMEs that Kosovo has committed to support and (d) recommends the institutions that should design, draft and implement the system.

2.2 The Reform Agenda Commitment

The substantive frame for this assignment is the Reform Agenda for Kosovo, approved by the European Commission in October 2024 under the Reform and Growth Facility for the Western Balkans. The Reform Agenda makes the disbursement of a substantial envelope of grants and concessional loans conditional on the delivery of agreed reform steps. Within the chapter on the business environment, the relevant commitment is the establishment of an early warning system to identify SMEs facing financial difficulties and prevent bankruptcy, with 100 SMEs supported by the end of June 2026.

The recommendations in this report are designed to deliver the commitment to the current timetable through a pragmatic soft launch. However, if the timeframe is extended for any reason, the same design is delivered with a more comfortable margin and a more robust administrative data capability. The recommended approach does not depend on the extension being granted.

3. The Directive Requirements on Early Warning

3.1 The Directive in brief

Directive (EU) 2019/1023 obliges Member States to put in place three important things:

1. Early warning tools and access to information for debtors in financial difficulty (Title I, Article 3),

2. A preventive restructuring framework that a business can use before it becomes insolvent (Title II, Articles 4 to 19) and a discharge of debt for over-indebted entrepreneurs within a maximum period (Title III, Articles 20 to 24),
3. Measures to improve the efficiency of procedures and to collect data (Titles IV and V).

For the present assignment, the operative obligation is Article 3 on early warning. Kosovo's Law No. 08/L-256 on Bankruptcy already contains a preventive reorganization procedure available where there is a likelihood of insolvency, which addresses the substance of Title II. What it does not yet contain is the early warning layer that sits in front of any restructuring procedure. The early warning system is, in other words, the missing piece and it is precisely the piece the Reform Agenda requires Kosovo to build.

Article 3 of Directive (EU) 2019/1023 sets a minimum standard. Member States must ensure debtors can access clear and transparent early warning tools that detect a likelihood of insolvency and prompt timely action. The four building blocks are:

- **Detection** - tools to identify businesses heading toward distress (e.g. alert mechanisms triggered by unpaid tax or social contributions),
- **Advice** - advisory services to help the business act in time (public or private),
- **Access to information** - publicly available online information about tools, easy to find for SMEs,
- **Connection onward** - a route to informal restructuring, creditor negotiation or the formal preventive restructuring procedure.

Article 3 does not prescribe a single institutional model, a particular set of indicators or a particular delivery body. It requires that the tools exist, that they work and that SMEs can reach them. As Article 3 sets only a minimum standard, transposition is a design choice rather than a copying exercise.

3.2 Kosovo's starting point

Kosovo's Law No. 08/L-256 on Bankruptcy states that it is "partially in accordance with" Regulation (EU) 2015/848 and Directive (EU) 2019/1023. That self-description is accurate and important. The law already provides for the reorganisation of a debtor in financial difficulty where there is a likelihood of insolvency, for reorganisation plans with classes of creditors, for the debtor remaining in possession of the business during reorganisation, as well as for a simplified route for SMEs and for pre-agreed plans. In other words, the preventive restructuring framework of Title II of the Directive is, in its essentials, already present in the current Kosovo law.

What the law does not contain is the early warning layer of Article 3. There are no detection tools, no statutory advisory functions, no obligation to publish information on early warning tools online, and no mechanism linking the appearance of distress signals to advisory support and, where appropriate, to the reorganisation procedure already provided by law. The current bankruptcy framework focuses on managing insolvency once it has arisen rather than on detecting and preventing it. Monitoring carried out by the Tax Administration, based on annual financial statements, produces signals too late to function as a genuine early warning system.

Kosovo does not need to rebuild its restructuring law. It rather needs to add the early warning layer and to build the operational system that makes that layer work in practice. The first is a legislative task and the second is an administrative and policy task.

4. Transposition of the Directive in EU Member States

When the early warning obligation of Article 3 is examined across the Member States that have transposed Directive 2019/1023, national practice falls into three patterns:

1. The first and most common pattern is to place the early warning provisions inside the insolvency, bankruptcy or restructuring law, the same law that governs reorganisation and liquidation. Member States that transposed in this way include Croatia, Romania, Greece, Italy and Spain. In each case the early warning provisions were added to, or built into, the law that already dealt with insolvency and restructuring,
2. The second pattern is to place the early warning provisions in a separate restructuring statute that is distinct from the main insolvency code but is still a restructuring and insolvency instrument. Germany and Austria followed this route and adopted a new restructuring act, the German StaRUG and the Austrian Restrukturierungsordnung, separate from its long-standing insolvency code. The early warning provisions sit in that new restructuring act,
3. The third pattern is to deliver early warning as an administrative programme or service without dedicated legislation at all. Denmark and Finland are the leading examples with early warning systems being well established and highly regarded, despite being designed on government programmes and funded services, not on a statute. France is a partial member of this group with its internal alert procedure long existing in the Commercial Code and its data-driven detection system operating as an administrative programme without a new early warning law.

What is decisive for Kosovo's choice is that no EU Member State has enacted a free-standing "early warning law". The closest case is Romania, whose Law No. 216/2022 is sometimes described as an early warning law, but that law is in substance an amending act that modified Romania's existing insolvency law and the early warning provisions live in the insolvency law as amended. The early warning obligation in the European Union is either transposed inside an insolvency or restructuring statute or not legislated at all. A separate, stand-alone early warning law has no evidence in the EU.

Member State	Legislative Instrument	In Bankruptcy/ Insolvency Law?	Operational Delivery
Croatia	Amendments to Bankruptcy Act	Yes	• Notification duties on tax authority and auditors • Official electronic bulletin
Romania	Law No. 216/2022 amending Insolvency Law No. 85/2014	Yes	• Alert tools and restructuring agreement within insolvency framework
Greece	Law No. 4738/2020 (the Insolvency Code)	Yes	• State digital EWS platform mandated by the Insolvency Code with a risk classification design (low/medium/high) • Advisory centres and chambers
Italy	Code of Business Crisis and Insolvency (Legislative Decree 14/2019), as amended by Legislative Decrees 118/2021 and 83/2022	Yes	• Negotiated crisis settlement via chambers of commerce

Spain	Law 16/2022 reforming the Insolvency Law	Yes	• Pre-insolvency restructuring tools • Simplified digital micro-enterprise procedure
Germany	StaRUG (separate restructuring act)	No (separate restructuring statute)	• Ministry's online-information duty • Professional advisers have duty to flag distress
Austria	Restrukturierungsordnung (ReO)	No (separate restructuring statute)	• Pre-insolvency restructuring procedure outside formal insolvency
Denmark	No dedicated legislation	No	• Early Warning Denmark • National mentor-based advisory programme (since 2007) • More than 5500 SMEs helped
Finland	No dedicated legislation	No	• Talousapu, national helpline and online self-assessment (since 2009)
France	Pre-existing Commercial Code alert procedure; no new law	Partly (alert procedure in Commercial Code)	• Data-driven detection run as an administrative programme

Croatia is the most directly relevant comparator for Kosovo, as it transposed Directive 2019/1023 by amending its Bankruptcy Act, with the amendments adopted in March 2022. One of the explicit objectives of the amended law was to create an early warning system that signals to debtors in difficulty that they should act without delay. Ministry of Finance, the Tax authority and auditors are placed under a duty to notify debtors of negative financial developments and the relevant information is published through an official electronic bulletin. The amended law also requires employers to inform workers' representatives, at least once a year, about the existence of the early warning system. Croatia shows that the early warning obligation can be met by a compact set of provisions added to the bankruptcy law, relying on notification duties rather than on an elaborate new apparatus.

Romania transposed the Directive through Law No. 216/2022, which amended its existing Insolvency Law (Law No. 85/2014 on insolvency prevention and insolvency proceedings). It is worth being precise about this case, because Romania is sometimes cited as proof that a separate early warning law is possible. It is not such a case: Law No. 216/2022 is an amending instrument, and the early warning and restructuring provisions it introduced operate as part of the insolvency law. Romania, like Croatia, placed early warning inside the insolvency framework.

Greece transposed Directive (EU) 2019/1023 through Law No. 4738/2020, the Insolvency Code, which establishes both a preventive restructuring framework and an early warning regime. The Insolvency Code requires from the state to establish digital early warning system designed to provide enterprises with an automated assessment of their financial situation based on data the enterprise enters and, where the assessment so indicates, a route into the advisory channel through advisory centres and professional chambers. The platform's design envisages a risk classification (low, medium and high) and the routing of enterprises to advice based on the classification. The Greek case combines an automated, low-cost front end

with human advice at the back end and locates supervision of the early warning system on the finance side of government, which simplifies the flow of tax-relevant data. The risk-classification design is the source of the three-band rating adopted in this report's methodology.

Denmark operates "Early Warning Denmark", widely regarded as the benchmark early warning system in Europe and it does so without a dedicated law. The programme provides free, impartial and confidential advice to SMEs at risk, delivered largely through a network of trained, mainly volunteer mentors - typically experienced business professionals. The State funds coordination, training and case management. Denmark demonstrates that the operational heart of an early warning system needs no statute at all and that a mentor-based model can deliver real impact at low cost.

Finland operates a national early warning system also without dedicated legislation, built around a single, easy point of contact - a helpline and an online self-assessment tool through which an entrepreneur obtains an initial diagnosis and a referral to the right next step. Finland's lesson for Kosovo is the value of a single, visible entry point, in which an entrepreneur in difficulty knows immediately where to turn.

France did not adopt a new early warning law. Its internal alert procedure has existed in the Commercial Code for many years. Its data-driven detection system, which cross-references administrative data to identify businesses at risk, operates as an administrative programme. France confirms that detection can be delivered as a programme and that legislation is needed only for the parts that require legal authority, such as duties on third parties and the handling of data.

4.1 Why is this comparison relevant for Kosovo?

First, the legislative element of an early warning system normally belongs to the insolvency or bankruptcy law. That is what Croatia, Romania, Greece, Italy and Spain did. The two States that used a separate instrument, Germany and Austria, used a separate restructuring statute, not an early warning law. Kosovo, unlike them, already has a bankruptcy law with a working reorganisation procedure and therefore no reason to create a separate restructuring statute.

Second, a free-standing early warning law has no precedent in the Union. A Member State, considering how to comply with Article 3 does not, in practice reach for a new dedicated law. This is a strong signal for Kosovo's own choice.

Third, the legislative element can be small. Croatia met the obligation with a compact set of notification duties. Article 3 does not require a long or complex law. It requires that the tools exist, that information is online and that there is a route to advice.

Fourth, and most important, the operational system is delivered administratively, not by statute. Denmark, Finland, Greece and France all built their actual early warning systems - platforms, helplines, mentor networks, advisory centres - as programmes, funded and run by an agency, sitting on top of whatever modest legislative base existed. The legislative choice and the operational setup are separable. Kosovo could and should treat them separately - a small legislative amendment to give the system legal authority and an administratively launched programme to deliver the 100 SMEs.

5. Which legislative vehicle for Kosovo?

This chapter addresses the question the beneficiary identified as the main purpose of the report, whether it is better to amend one of the existing laws or to create a stand-alone early warning law. The analysis is presented objectively and it sets out the realistic options, assesses each against a common set of criteria and reaches a recommendation. It also includes inputs received from the online meeting with main stakeholders in Kosovo.

The beneficiary identified three laws as potential carriers of the early warning system:

1. **Law No. 08/L-256** on Bankruptcy,
2. **Law No. 06/L-016** on Business Organisations,
3. **Law No. 08/L-257** on the Administration of Tax Procedures.

There are four realistic options:

- **Option A - Amending the Law No. 08/L-256 on Bankruptcy** by inserting an early warning chapter that transposes Article 3 of the Directive,
- **Option B - Amending the Law No. 08/L-257 on the Administration of Tax Procedures** to make the tax law the principal home of the early warning function,
- **Option C - Adopting a new stand-alone Law on the Early Warning System**
- **Option D – Amending the Law No. 06/L-016 on Business Organisations.**

Criterion	Option A - Amending Bankruptcy Law	Option B - Amending Tax Law	Option C - Stand-alone Law	Option D – Amending the Law on Business Organisations
Consistency with EU practice	Strong - the dominant model	Weak - no precedent	Weak - no precedent	Weak - no precedent
Conceptual fit	Good - early warning sits with preventive reorganisation	Poor - support function in an enforcement law	Very good in form	Moderate
Speed of adoption	Fast - short amending act	Moderate	Slow - full new law	Fast (given the current circumstances)
Clarity of ownership	Strong - Ministry of Justice already administers the law	Strong but undesirable, centered on the reluctant institution	Weak - risk of an orphan law	Strong but centered on the reluctant institution
Demand on reluctant institutions	Low	High	Moderate to high	Moderate to high
Coordination burden	Low	High	High	Low

Overall	Recommended	Not recommended	Not recommended	Recommended (second best choice)
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The objective assessment points clearly to **option A**. Kosovo should transpose the early warning obligation of Article 3 of the Directive by **amending Law No. 08/L-256 on Bankruptcy**, inserting a short early warning chapter. This is the dominant model in the European Union. It is coherent with the preventive reorganisation procedure the law already contains, it completes a transposition the law itself describes as only partial, it is owned by the Ministry of Justice and it is the fastest credible legislative route.

As the second-best choice, it is worth considering option D. However, there is no clear EU precedent for embedding preventive restructuring frameworks and early warning systems within a Law on Business Organizations. Law No. 08/L-256 on Bankruptcy already exists and partially addresses Directive 2019/1023, meaning any amendment pathway through Law 06/L-016 would require careful demarcation to avoid legal conflict. Several countries (notably Germany and Italy) have introduced director duty provisions in company law that complement the EWS in the insolvency law.

Neither the tax law nor a stand-alone law is recommended as the principal vehicle. The tax law is an enforcement instrument and not the best vehicle for a support function, whereas a stand-alone law has no European precedent, has the slowest route and would create an instrument that no institution has a natural reason to own.

5.1 What Goes Where?

- Primary action - a short Early Warning chapter in Law No. 08/L-256, drafted by the Ministry of Justice.
- A supporting provision is inserted into Law No. 08/L-257 on the Administration of Tax Procedures, creating a specific exception to tax confidentiality. The exception permits, and on request of the implementing agency, requires the Tax Administration of Kosovo to share with the Kosovo Investment and Enterprise Support Agency (KIESA) a defined set of distress data on identified enterprises, comprising the items listed in the Methodology and nothing more. The data is transmitted under a single data sharing protocol to be agreed by the Tax Administration, KIESA and the Information and Privacy Agency. The protocol specifies the categories of data, the form and frequency of transmission, the permitted use, as well as the data-protection safeguards. Data obtained under this provision is used only for the operation of the early warning system. It is not used for any supervisory, enforcement or tax-assessment purpose and may not be transmitted onwards. The provision is modelled on the comparable transposing provisions in Croatia (amendments to the Bankruptcy Act, 2022) and Romania (Law No. 216/2022 amending Law No. 85/2014), which create similar tax-data flows to the body operating the early warning function.
- A short provision in the Early Warning chapter inserted into Law No. 08/L-256 requires the employer of an enterprise within the scope of the system to inform the workers' representatives, at least once a year, of the existence of the early warning system, the means of access to it, and the right of the enterprise to make use of it. The provision is modelled on the corresponding provision in Croatia's transposing legislation and gives effect to the social dimension of Directive (EU) 2019/1023.
- Designation of KIESA as the implementing agency requires that its existing legal mandate covers the operational tasks set out in this report. In particular, the operation of a confidential case-management system, the accreditation of external service providers, the administration of relevant financial

incentives, the receipt and processing of protected tax data and the maintenance of a register of supported enterprises. In case the existing KIESA founding instrument does not provide for these functions, the legislative package recommended in this report includes a short, parallel amendment of that instrument, extending KIESA's statutory functions to encompass the operation of the early warning system. The amendment is tracked in parallel with the amendments to Law No. 08/L-256 and Law No. 08/L-257 and is in force before KIESA begins to receive data or administer incentives under the system.

- **If Kosovo decides to amend Law No.06/L-016, Article 9 should be expanded with KIESA functions, new article should include EWS mechanisms (for example Article 9a). Finally, director/board duty provisions should be inserted (for example, in articles 107 and 159-162). The amendment should be accompanied by a Ministry of Economy Administrative Instruction that operationalizes EWS implementation details without requiring parliamentary procedure for each update. This Administrative Instruction mechanism has precedent - MIET No. 01/2021 was already issued under Law 06/L-016.**

Additional Administrative Instruction should specify:

- **Precise quantitative thresholds triggering an EWS alert (for example, capital below 50% of registered minimum for 90+ days; annual report non-filed 30+ days past deadline)**
- **KIESA's internal alert processing procedures and timelines**
- **The roster of designated advisory service providers accessible to businesses upon EWS referral**
- **Data sharing protocols with Tax Administration of Kosovo and Kosovo Pension Savings Trust**
- **Reporting obligations of KIESA to the Ministry of Economy on EWS activity (annual report)**

6. Institutional Architecture for Early Warning System Implementation

- **Ministry of Industry, Entrepreneurship and Trade (MIET)** is a policy owner. The Ministry adopts the methodology, secures and maintains the budget envelope and owns the performance agreement with the implementing agency under which delivery is measured. The Ministry reports the operation of the early warning system and progress towards the 100-SMEs target to the European Commission in accordance with the reporting practice of the Reform and Growth Facility for the Western Balkans. The delivery is the responsibility of KIESA and the case-file structure it operates is designed to satisfy the verification arrangements, so that the count of supported SMEs reported by the Ministry can be evidenced through the case files on which it rests,
- **Kosovo Investment and Enterprise Support Agency (KIESA)** - implementing agency. Operates the entire EWS and it is also accountable to MIET for the 100-SMEs target. KIESA establishes, within its existing structure, a dedicated Early Warning System Unit. The Unit is responsible for the operational delivery of the system: the self-assessment tool, the helpline, intake, the diagnostic, the support plan, delivery, follow-up, the case file, the register, financial incentives, the accredited provider system, mentor recruitment, case management and the reporting to the Ministry. The Unit is headed by a designated officer of the implementing agency, reporting to the Director. The Unit's

indicative establishment is set out in the operational plan adopted by the implementing agency based on the budget envelope approved by the Ministry. If operational plan provides for specific functions to be delivered through procurement (for example the IT systems, the helpline operation, the accredited provision of specialist services and the training of mentors), the procurement is conducted by the agency,

- **Ministry of Justice (MoJ)**- legislative drafter. The Ministry of Justice drafts the Early Warning chapter inserted into **Law No. 08/L-256** and the supporting amendment to **Law No. 08/L-257**. After adoption, the Ministry remains the legal owner of the early warning provisions of the bankruptcy law. It is consulted on questions of legal interpretation that arise in the operation of the system and it is a permanent member of the Early Warning Coordination Group. The Ministry of Justice does not deliver any operational component of the system,
- **Office of the Prime Minister (OPM)** - the coordinator of the inter-institutional aspects of the early warning system. It has convening and dispute-resolution roles. The institutions involved in the system retain their constitutional and statutory autonomy and their cooperation rests on the legal duties created by the legislative package recommended in this report. The OPM convenes a standing **Early Warning Coordination Group**, comprising the Ministry of Industry, Entrepreneurship and Trade, the Ministry of Justice, the Kosovo Investment and Enterprise Support Agency, the Tax Administration of Kosovo, the Kosovo Business Registration Agency, the Kosovo Pension Savings Trust, the Information and Privacy Agency and a representative of the Kosovo Judicial Council. Early Warning Coordination Group meets every month during the soft launch phase and at least quarterly thereafter. It resolves operational difficulties between the institutions, oversees the data sharing protocol and reports any unresolved blockage to the Prime Minister for political escalation,
- **Information and Privacy Agency of Kosovo (IPA)** is the data protection supervisor of the early warning system. The IPA is consulted formally during the design of the data sharing protocol and approves the protocol before it becomes operational. IPA continues to supervise the processing of personal and enterprise data under the system and any material change to the data sharing protocol requires renewed approval. Channel 3 of the methodology, screening of administrative data, does not become operational until the IPA has approved the protocol under which the data is shared.

The four institutions designated as data providers undertake structuring and extraction of the data, the periodic transmission of the feed in the agreed format, the quality assurance of the feed and the contribution to the data sharing protocol negotiated with the Information and Privacy Agency. The data provider institutions retain ownership of and supervisory responsibility for the underlying data. They are:

- **Kosovo Business Registration Agency (KBRA)** - identity and status data: who the business is, its size, sector and whether it has filed financial statements,
- **Kosovo Judicial Council** provides legal distress data. The Judicial Council makes available to the implementing agency data on enforcement orders and insolvency cases against enterprises. The data should be in a structured form suitable for routine querying. This arrangement does not create any new disclosure obligation on the courts and does not affect the constitutional independence of the judiciary. The form of the arrangement is set out in a memorandum of understanding between the Judicial Council and the implementing agency, made in consultation with the Information and Privacy Agency.

- **Tax Administration of Kosovo** - tax distress data (arrears and late/missing declarations). The tax law amendment authorizes this data feed. Nothing else is asked,
- **Kosovo Pension Savings Trust** - pension contribution arrears at the employer level. The Trust shares with the implementing agency aggregated data identifying enterprises that are in arrears on pension contributions, at set intervals. The feed is at the level of the enterprise and does not include individual worker data. The legal basis for the feed is either an existing provision of the Trust's establishing legal instrument permitting aggregated disclosure for the purpose of public-interest programmes, or, if such a provision is not present, a short amendment to that instrument, tracked alongside the principal legislative package,
- Institutional overview is provided in the following table:

Institution	Role	What it does
MIET	Policy owner	Designs the measure, adopts the methodology, secures budget, oversees KIESA, reports to the European Commission
KIESA	Implementing agency	Operates the whole system (tools, helpline, intake, diagnostics, support, incentives, register)
Ministry of Justice	Legislative drafter	Drafts the Early Warning chapter for Law 08/L-256 and the supporting tax-law amendment
Office of the Prime Minister	Coordinator	Convenes institutions, secures cooperation, resolves blockages
Information and Privacy Agency of Kosovo	Data-protection supervisor	Approves the data sharing protocol, supervises ongoing processing, advises the Early Warning Coordination Group on data protection compliance
Business Registration Agency	Data provider	Supplies registry data and financial statement filing status
Kosovo Judicial Council	Data provider	Provides enforcement order and insolvency case data
Tax Administration	Data provider	Provides tax arrears and late-declaration data
Pension Savings Trust	Data provider	Provides data on pension contribution arrears

7. The “100 SMEs” EWS Measure: Identifying and Supporting SMEs in Distress

The Reform Agenda does not ask for a legal framework only, it also asks for a result - 100 SMEs supported by June 2026. This chapter sets out a practical methodology and measures to be delivered in an operating early warning system that has identified SMEs facing financial difficulties and will provide support to at least 100 of them. Two points of interpretation matter. The target is 100 SMEs supported and not 100 SMEs rescued, meaning that the commitment is about the delivery of support, not about a survival rate. However, the survival of supported businesses is the ultimate purpose of the system and is the subject of a separate monitoring indicator. The survival outcome is reported by the implementing agency in the annual report on the operation of the early warning system, on the basis of the follow up contacts in Section 7.5 Stage 5 and is used to inform the calibration of the system. It is not the indicator against which the Reform Agenda commitment is verified.

The soft launch architecture is the form of the system during the delivery of the 100 SMEs target. It relies on Channels 1 and 2 (self-referral and intermediary referral), depends on the financial incentives and the support pathway being operationalised by the implementing agency and it does not require the data sharing protocol of Channel 3 to be in force. The steady state architecture is the form of the system once the legislative package has been adopted, the data sharing protocol is in force and Channel 3 is operational. In steady state, all three channels operate across the full intended scope.

7.1 Methodology

The methodology brings four criteria to select eligible SMEs:

1. **The company must be SME** according to Kosovo regulations,
2. The business must be **active and registered**, present in the Kosovo Business Registration Agency’s register, not dormant, not already dissolved and not already in a bankruptcy or liquidation proceeding. The early warning system is for businesses that still have a future to protect,
3. The business must be **facing financial difficulty** but still potentially **viable**. There must be a sign of difficulty, at least one of the distress indicators,
4. The business must be **plausibly viable**, capable of continuing as a going concern if its difficulties are addressed in time.

The methodology also states who is not the target - businesses that are sound and not in difficulty (they do not need the service), as well as businesses whose difficulty stems from fraud or deliberate abuse rather than genuine commercial distress (they belong with enforcement and the courts, not with a support programme).

7.2 SME Identification Methodology - Three Channels

To identify 100 distressed SMEs reliably and quickly in Kosovo, the methodology therefore uses **three channels in parallel**.

Channel 1 - Self-referral. The business identifies itself. This channel is built from three simple, low-cost tools:

- an **online self-assessment tool** on a public website, into which an entrepreneur enters a small number of basic figures (e.g. turnover trend, overdue obligations, cash position, employee numbers) and receives an immediate, plain-language indication of the business's health and a prompt to seek advice,
- a **telephone helpline**, answered by KIESA, provides basic information about the early warning system, answers preliminary questions and books an intake appointment and
- **walk-in access** to KIESA's offices.

Self-referral is the channel most consistent with the confidentiality on which the system depends, because the business chooses to come forward. It is also the fastest to stand up, because it needs no data sharing agreements.

Channel 2 - Referral by intermediaries. Someone who deals with the business in the ordinary course identifies it and refers it, with the business's agreement, to the early warning system. The intermediaries are the:

- **Chambers of commerce and business associations**, which are in regular contact with their members,
- **Accountants and auditors**, who see a client's figures before anyone else and are the single best-placed observers of emerging distress,
- **Commercial banks**, which see deteriorating account behaviour and
- **Municipal business offices**, which interact with local enterprises.

Intermediary referral is powerful because it reaches businesses that would not come forward on their own and because it uses existing relationships and existing trust. It needs no legislation, only outreach, a simple referral form and, optionally, the modest referral incentive.

The participation of commercial banks in the intermediary channel is a matter of commercial choice, subject to an understanding between the Central Bank of Kosovo, the Banking Association of Kosovo and the implementing agency. The early warning system is offered to banks as a complement to their own workout activity. When a bank identifies a small or medium-sized borrower in early difficulty and considers that an externally facilitated diagnostic and support plan would assist the borrower's recovery, the bank refers the borrower, with the borrower's consent. The referral does not displace any other right of the bank against the borrower and creates no obligation on the bank to participate further. Where a bank does not, in a particular case, see a workout interest, no referral is expected.

Channel 3 - Screening of administrative data. The institutions that hold data on businesses identify, from defined distress indicators, businesses that appear to be in difficulty, so that the early warning system can reach out to them. This is the channel the Directive has most directly in mind and in the long run it is the most powerful, because it can see distress that neither the entrepreneur nor an intermediary has yet recognised. It is, however, the channel that depends on cooperation from institutions and on a data sharing protocol that takes time to agree and build. The methodology therefore treats Channel 3 as **important but progressive**. It is built up over time, starting with whatever data can be shared earliest and simplest and it is not on the critical path for the first 100 SMEs. The build-up of Channel 3 – the data sharing protocol, the technical feeds and the operational activation – is conducted in accordance with the Information and Privacy Agency's approval (as written in Chapter 6). Outreach in Channel 3 begins only after the IPA has approved the protocol.

A business identified through any channel enters the **same support pathway**. The channels are routes in, whereas the pathway is what happens next and it is identical regardless of the route.

7.3 Distress Indicators and Data Sources

Whether a business is screened from administrative data (Channel 3) or assessed at intake after self or intermediary referral (Channels 1 and 2), the same set of distress indicators is used. The indicators below are chosen to be simple, meaningful and observable. They are deliberately not complicated because the international evidence shows that the simplest indicators, unpaid taxes and unpaid social contributions, are among the most predictive.

Indicator	Data source	Why it signals distress?
Tax arrears (VAT, corporate income tax, withholding)	Tax Administration of Kosovo	The earliest and most reliable sign - distressed firms delay tax payments first
Late or missing tax declarations	Tax Administration of Kosovo	Often precedes arrears and signals loss of administrative control
Pension contribution arrears	Kosovo Pension Savings Trust	Unpaid contributions for employees are a strong, early distress signal
Non-filing of annual financial statements	Kosovo Business Registration Agency	Signals weak governance and possible hiding of poor results
Enforcement orders against the business	Kosovo Judicial Council (courts)	Creditors have moved to compulsory collection
Bankruptcy or insolvency case filed	Kosovo Judicial Council (Commercial Court)	Distress has reached the courts (often late)
Self-reported difficulty	The business itself (self-assessment, helpline)	Cash shortage, lost major client, inability to pay wages or suppliers
Difficulty observed by an intermediary	Chambers, accountants, banks	Deteriorating accounts, declining turnover, late payments to suppliers

Two design rules apply to these indicators. First, **a single indicator is enough to justify outreach** - the early warning system reaches out to offer help, it does not impose anything, so the cost of a false positive is only a wasted contact. Second, **the precise thresholds** - how large an arrear, how many missed declarations - should be set in secondary legislation (an administrative instruction), not in the law and not fixed permanently in the methodology, so that they can be calibrated during the first year and adjusted in the light of experience.

It is worth being explicit about which institution holds which data. The Business Registration Agency holds the identity and status data - who the business is, its size and sector, whether it is active and whether it has filed its financial statements. The Judicial Council holds the legal distress data - enforcement orders and insolvency cases. The Tax Administration holds the tax-distress data and the Pension Savings Trust holds the pension arrears data.

The distress indicator thresholds are set, and from time to time revised, by administrative instruction of the Ministry, based on a documented review of their operation. The implementing agency reports annually to the Ministry on the operation of the indicators and on any threshold changes made during the year. The arrangement permits the calibration of the indicators in the light of operating experience while preserving public visibility of the choices being made.

At a later stage indicators can be expanded. The following financial ratios and metrics are the most widely applied across EU Member States' EWS frameworks, based on empirical research across 8400 European companies (2017–2022)¹ and the Allianz analysis² of Germany, France, Italy, and Spain:

Indicator Category	Metric	Common EWS Threshold / Signal
Liquidity	Current Ratio (Current Assets/Current Liabilities)	< 1 triggers alert
Liquidity	Quick Ratio (Current Assets - Inventories)/Current Liabilities	< 1 signals concern
Liquidity	Cash Ratio (Cash/Current Liabilities)	< 0,2 = red flag
Solvency/Capital Structure	Equity Ratio (Equity/Total Assets)	< 20–25% signals distress
Solvency	Debt-to-Equity Ratio	> 4 is common warning threshold
Solvency	Reserves/Total Assets	Negative = high-risk signal
Profitability	ROCE (Return on Capital Employed)	< 7% (Germany), < 6% (France), < 4% (Spain/Italy)
Profitability	Return on Assets (ROA)	Negative = alarm indicator
Debt Service	DSCR (Debt Service Coverage Ratio)	< 1 triggers mandatory reporting (Italy)
Debt Service	Interest Coverage (EBIT/Interest Expenses)	< 1x is critical; < 3x is a watch signal
Tax / Social	Tax/Social Security Arrears	Unpaid obligations > 3 months = EWS trigger in many states

¹ Ana Elena Hidalgo-Díaz, David Alaminos-Aguilera, and Enrique Delgado-Gómez, “New Early Warning Tools for Insolvency Prevention in the European Context,” *Tourism & Management Studies* 21, no. 3 (2025): 53–70, <https://doi.org/10.18089/tms.20250304>

² Ana Boata and Kai Gerdes, *SMEs & MidCaps Go Through Three Phases of Corporate Distress Prior to Insolvency (The View by Economic Research, Euler Hermes Allianz Economic Research, 24 September 2019)*

Working Capital	Cash Flow from Operations/Sales	Persistent negative = distress indicator
Non-financial	Payment delays to suppliers	> 60–90 days = operational alert
Non-financial	Legal proceedings/court cases	Any enforcement action = risk signal

7.4 Eligibility and selection criteria

When more businesses are identified than the programme can support in a given period, a transparent rule is needed for deciding whom to support.

A business is eligible if it meets four target group criteria from section 7.1.

Among eligible businesses, priority is given based on three considerations:

1. Timeliness of the intervention (a business showing early signs is a better candidate than one already deep in crisis, because early help is what the system is for),
2. Employment at stake (a business with employees whose jobs can be preserved represents a larger social return) and
3. Engagement (a business that responds and is willing to work on its situation can be helped, whereas one that does not engage cannot). These are guidelines for sequencing, not rigid scores. The aim is to use a limited budget where it does the best.

7.5 The support pathway - from identification to “supported SME”

Every business that enters the system, by whatever channel, follows the same five-stage pathway. The pathway is deliberately simple.

Stage 1 - Intake. KIESA opens a confidential case file, confirms eligibility and records how the business was identified. Intake can be completed in a single conversation, in person or by telephone,

Stage 2 - Diagnostic. A structured **business health check** is carried out with the entrepreneur. A short review of turnover and its trend, cash position, overdue obligations (tax, pension, suppliers, loans), order book and main commercial relationships, as well as the immediate causes of difficulty. The diagnostic produces a written summary, a simple risk rating (for example, low, medium or high concern, following the Greek three-band approach) and an indication of what kind of support the business needs. The diagnostic is the analytical core of the methodology and the point at which a realistic viability judgement is made,

Stage 3 - Support plan. Based on the diagnostic, KIESA and the entrepreneur agree a short, written **support plan** - a few concrete actions with a timeline. The plan draws on a defined menu of support (Stage 4) and is proportionate to the size of the business and the depth of its difficulty,

Stage 4 - Delivery of support. Support is drawn from a standard menu, so that delivery is consistent and countable:

- **Advisory and mentoring.** Confidential one-to-one guidance, delivered by a KIESA adviser or by a trained mentor (the Danish model), over a defined number of sessions. This should be the backbone of support,

- **Specialist professional services.** When the business needs accounting, tax or legal expertise beyond general advice, accredited professional delivers the service with the cost supported by a voucher or grant,
- **Help in dealing with creditors.** Practical assistance in approaching the Tax Administration for an instalment arrangement or banks and suppliers for revised terms. This addresses the most common immediate cause of distress. Where the support pathway includes assistance to an enterprise in approaching the Tax Administration for an instalment arrangement, the assistance is provided by an adviser of the implementing agency based on information given by the enterprise itself. The data on tax arrears received by the implementing agency under the data sharing protocol should be used only to identify enterprises for outreach under Channel 3,
- **Training.** Short, targeted training in cash-flow management, basic financial literacy or digital tools, where weak management capacity is part of the problem.
- **Referral to the reorganisation procedure.** Where the diagnostic concludes that informal measures will not be sufficient, the implementing agency explains the preventive reorganisation procedure available under Law No. 08/L-256, in plain language, and refers the enterprise to a qualified legal professional (either an accredited provider engaged through the support menu, or, where the enterprise has its own counsel, that counsel for the legal advice on whether and when to commence the procedure). The implementing agency does not itself give legal advice on access to the procedure. Its role is rather informational and connective. The professional engaged in advising the enterprise is responsible, on the ordinary professional terms, for the advice given. The case file records the explanation given by the adviser, the date and identity of the legal professional to whom the enterprise was referred and any subsequent action of which the implementing agency is informed,

Stage 5 - Follow-up. A follow-up contact is made after a defined interval (e.g. three or six months after the support plan is agreed) to record whether the business is still trading, whether the plan was carried out and what the outcome has been. Follow-up is essential both for the business and for the programme's own monitoring and reporting.

7.5.1 Mentor recruitment and accreditation

The pool of mentors is recruited and maintained by KIESA through a mentor-recruitment programme drawing on the membership of the Society of Certified Accountants and Auditors of Kosovo, the Kosovo Bar Association, the established chambers of commerce and potentially diaspora business community. Mentors are experienced businesspeople or professionals, vetted for conflicts of interest, trained on the role and on the methodology and accredited by the implementing agency. The programme is modelled on the recruitment practice of Early Warning Denmark, which is the comparator with the longest record on the volunteer-mentor approach. Whether mentors operate on a volunteer basis or get remunerated is to be decided by MIET.

7.6 Financial Incentives

The beneficiary has indicated that KIESA is likely to have **financial incentives** available within the measure - funds that can be given to SMEs or to other actors in the process. Financial incentives have to be

designed carefully, because they also create cost, administrative burden and risk. The methodology recommends three design options that are not mutually exclusive.

Option 1 - Advisory vouchers for SMEs. The supported business receives a voucher that can be used only to purchase a defined specialist service - accounting, tax, legal advice or a restructuring diagnosis from an accredited provider. The voucher is the recommended core incentive and it draws qualified professionals into the system. A voucher in the range of a few hundred to around a thousand euros per business should be enough to fund a meaningful professional engagement for SMEs,

Option 2 - Grant for a recovery action. In cases in which the support plan identifies a specific, concrete action that requires expenditure (e.g. a piece of equipment, a digital tool or short-term specialist help to strategically reposition the company) the programme co-finances it. Co-financing is preferred over full grant as it keeps commitment from the SME. Grants of this kind should be awarded against the written support plan and kept simple to manage.

Option 3 - A referral incentive for intermediaries. A small payment to a chamber of commerce, business association or accountant for each business they refer that goes on to complete intake and a diagnostic. This can accelerate Channel 2, but it must be handled with care. It should be paid only on a completed diagnostic (not merely a name passed on) and should be modest, transparent and designed to avoid any incentive to refer to businesses that do not genuinely need help. The methodology recommends treating Option 3 as optional and used only if the referral channel is underperforming.

All incentives must be tied to the support plan and to defined, accredited services. They must be capped per business, with the cap set in secondary legislation, so the total cost is predictable. They must also respect state-aid principles, structured as small-scale and de-minimis-type support. KIESA already administers business support schemes and has the capacity to run incentives of this kind.

7.7 Conflict of Interest Rules for Intermediaries, Providers and Incentives

The following rules apply to the operation of the intermediary referral channel (Channel 2), the accredited provider system and the financial incentives.

First, a person or firm that has referred an enterprise to the early warning system under Channel 2 may not also be the accredited provider that delivers a voucher-funded or grant-funded service to the same enterprise, unless the dual role is disclosed in writing to the implementing agency, as well as accepted in writing by the enterprise and recorded in the case file. The implementing agency may, on the basis of the disclosure, require that a different provider is selected.

Second, no person or firm may receive both an intermediary referral incentive and a service provider fee in respect of the same enterprise. Where a person would qualify for both, the intermediary referral incentive is waived.

Third, the implementing agency maintains a register of accredited intermediaries and providers. A person who breaches these rules may be suspended or removed from the register. The implementing agency publishes the criteria for suspension and removal as part of the methodology.

7.8 Supported SMEs

An SME is counted as supported when, within the period of the measure, it has (a) been formally taken into the early warning system through intake, with eligibility confirmed, (b) completed a documented diagnostic (business health check) resulting in a written summary and a risk rating and (c) received at least one substantive intervention from the support menu - an advisory or mentoring engagement, a specialist professional service, documented help in dealing with creditors, training, or guided referral into the reorganisation procedure. Each supported SME must have a case file containing the intake record, the diagnostic, the support plan and evidence of the intervention delivered.

7.9 Limitations

The early warning system is a public service offered to enterprises in difficulty. The diagnostic, the support plan and the advisory and mentoring services provided by the implementing agency are given on a best-efforts basis and do not constitute a guarantee, by the implementing agency or by the State, of the recovery or survival of the enterprise. The implementing agency does not assume a duty of care, enforceable in damages, in respect of the commercial outcome of the enterprise. Specialist professional services delivered through accredited providers are subject to the ordinary professional terms of the provider concerned and liability for those services rests with the provider on those terms. These limitations follow the model of the comparable public early warning systems in Denmark, Finland and France.

8. Roadmap and Risks

8.1 Roadmap

The roadmap below sequences the actions recommended in this report. The operational system is launched administratively and immediately, while the legislative amendment proceeds in parallel and catches up. The operational track delivers the 100 SMEs while the legislative track gives the system its permanent legal foundation.

The early warning system is delivered in three phases.

Phase 1 - Decisions and mobilisation (the first two to three months from the adoption of this report):

- The Government Decision/ Administrative Instruction establishing the early warning system is adopted,
- Implementing agency's operational plan is finalized,
- The legislative drafting begins,
- Information and Privacy Agency is engaged on the draft data sharing protocol,
- Early Warning Coordination Group is convened for the first time,
- Helpline and self-assessment tool are scoped for procurement.

Phase 2 - Soft launch and the first cohort (next four to five months):

- The helpline goes live and the self-assessment tool is published,
- Intermediary channel is operationalised through briefings to the chambers, Society of Certified Accountants and Auditors of Kosovo (SCAAK), the Kosovo Bar Association and the Banking Association,

- First cohort of mentors is recruited and briefed,
- Accredited-provider system is opened,
- Channels 1 and 2 operate, while Channel 3 is in preparation.

Phase 3 - Legislation in force and full operation (from the entry into force of the legislative package):

- The Early Warning chapter of Law No. 08/L-256 and the supporting amendment to Law No. 08/L-257 are adopted by the Assembly and enter into force,
- Data-sharing protocol approved by the Information and Privacy Agency is signed and operational,
- Channel 3 is activated and the system moves to the steady state architecture. The legislative amendment, although important, is not on the critical path for the 100-SMEs target.

8.2 Risks and mitigation

Risk	Mitigation	Owner
Reluctance of data-provider institutions to operationalise the data feeds	• Statutory duty in Law 08/L-257 • Data sharing protocol approved by the IPA • Early Warning Coordination Group escalation	• OPM (coordination) • MIET (policy) • KIESA (operational)
KIESA capacity gap relative to the operational ask	• Dedicated EWS Unit • Staffing and procurement under the operational plan • Selective franchising to accredited providers	• KIESA Director
Failure to recruit a sufficient pool of mentors	• Engagement with SCAAK, Kosovo Bar Association, the chambers and the diaspora business community • Clear role profiles	• KIESA mentor coordinator
Low SME uptake of the system	• Communications plan • Visible single point of contact • Intermediary referral incentive (Option 3) • Structured consultation with SMEs	• KIESA • Chambers • MIET
Slippage of the legislative package	• Soft launch architecture does not depend on the legislation • Phase 1 deadline targeted for the Early Warning Coordination Group • MoJ ownership of drafting	• MoJ • OPM
Conflicts of interest in the intermediary-provider chain	• Rules on conflict of interest • Register of accredited persons • Sanctions for breach	• KIESA

Data-protection challenge	• Early IPA engagement • Data sharing protocol approved before activation of Channel 3	• KIESA • IPA
Reputational damage to an enterprise from Channel 3 outreach	• Opt-out (Channel 3) • Complaint route to the IPA • Data-protection safeguards	• KIESA • IPA

9. Summary of recommendations

- Early warning obligations should be transposed by amending **Law No. 08/L-256** on Bankruptcy, inserting a short Early Warning chapter. This is the dominant EU model and the fastest, best-owned route. It is not recommended to pursue a stand-alone early warning law, which has no EU precedent, and to make the tax law the principal vehicle,
- A data sharing provision should be added to **Law No. 08/L-257** on the Administration of Tax Procedures requiring the Tax Administration to share defined distress data with the implementing agency for the early warning system. This should be the only change to the tax law,
- **Law No. 06/L-016 on Business Organisations can be amended as a second-best choice,**
- Operational system should be established by the Government Decision/ Administrative Instruction, not primary law, so that it can be soft launched immediately and given a positive, supportive identity separate from the bankruptcy law,
- KIESA should be designated as the single implementing agency that operates the whole system and is accountable for the 100-SMEs target,
- MIET should be confirmed as a policy owner and the Ministry of Justice as legislative drafter,
- Office of the Prime Minister should be given the coordination role, convening the institutions and securing the cooperation of the data providers,
- Information and Privacy Agency is engaged on the data sharing protocol,
- Following institutions shall be included as data providers only - Business Registration Agency, the Kosovo Judicial Council, the Tax Administration and the Pension Savings Trust,
- Three-channel identification methodology should be adopted (self-referral, intermediary referral and administrative-data screening) and rely on the first two for the first cohort and building the third progressively,
- The five-stage support pathway should be adopted (intake, diagnostic, support plan, delivery and follow-up) and “supported SME” should be precisely defined with KIESA maintaining a register as the single source for reporting,
- Financial incentives should be modest and compliant with state-aid principles.