

# EUROPEAN BANKING GUIDE FOR NONPROFITS

## *HOW TO OPEN AND MANAGE AN ORGANIZATIONAL BANK ACCOUNT*



European Center for  
Not-for-Profit Law



**PILnet**



**BULGARIA**

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European Center for  
Not-for-Profit Law

### **European Center for Not-for-Profit Law Stichting (ECNL)**

ECNL's mission is to create legal and policy environments that enable individuals, movements and organizations to exercise and protect their civic freedoms and to put into action transformational ideas that address national and global challenges. We envision a space in which everyone can exercise their rights freely, work in solidarity and shape their societies.



### **PILnet**

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PILnet is a global non-governmental organization that creates opportunities for social change by unlocking law's full potential. With programs in Europe & Eurasia, Asia, and at the global level, PILnet aims to reclaim and reimagine the role of law so that it works for the benefit of all. PILnet builds networks and collaborations of public interest and private lawyers who understand how law works when it serves the interests of the privileged and then it uses that knowledge to strengthen civil society and the communities they serve. PILnet not only obtains high-quality, free legal assistance for civil society organizations when they urgently need it but also helps organizations to capitalize on the full range of specialized legal expertise that can be provided by corporate lawyers, including against ongoing, or even yet-to-be-determined, challenges.

# 1. OPENING AN ORGANISATIONAL BANK ACCOUNT

## a. What are the requirements to open an organisational bank account?

The principle of freedom of cross-border payments and payment services within EU sets out the absence of restrictions for EU companies to open and operate bank accounts with banks, registered in other EU member states, including Bulgaria. Further, the Bulgarian Currency Act (“**Currency Act**”) follows this principle, providing that all actions, transactions, and payments between local and foreign persons and transborder transfers and payments shall be conducted freely unless otherwise provided by law. The Currency Act imposes outbound reporting restrictions for Bulgarian economic agents but does not impose any such restrictions to inbound opening of bank accounts. As outlined in our answers below, although there is no statutory prohibition for opening of such inbound accounts in Bulgaria the requirement for detailed KYC as well as ongoing AML and terrorist financing monitoring over bank accounts and payment transactions, owned by foreign entities (including CSOs) or persons, significantly constraints the offering of such services in Bulgaria, as it renders them onerous for credit/payment institutions as the risk for maintaining such services outweighs the economic benefits. This leads to increased costs for opening and maintaining of bank accounts or outright decline for rendering such service to foreign entities or even to local entities with foreign capital/management

### i. Do organisations have to be physically present in the country to open a bank account? I.e., can they operate in country X but have a bank account in country Y? Is the presence of a statutory representative required or can the presence be fulfilled through an authorization?

Local representatives (e.g., Bulgarian nationals or foreigners with Bulgarian residence as managers) are not mandatory for opening of bank accounts owned by entities with 100% foreign capital or by foreign entities, but such local management would be beneficial as it would increase the chance of clearing of the KYC process as well as the ongoing internal AML monitoring of the bank.

**ii. Are there specific requirements for CSOs to open accounts by law or asked in practice by the banks (e.g, years of operations, annual turnover, to have director or member of governing body to be national of the country)**

There are no such specific requirements. However, in our practice, we have found that local banks are less reluctant to open bank accounts to companies which have at least one legal representative residing in Bulgaria. This is beneficial to them from a practical perspective, as it is presumed that the respective individual would be available for a personal meeting with bank officials and necessary documents would be signed locally, rather than sent by courier from another country.

**iii. Who is authorized/required to open a bank account? Can this be done online, or that person needs to be present in the country?**

In the case of a local legal entity with foreign capital/foreign entity (including CSOs), the bank account is opened in the name of such entity by

- the entity's legal representative, or
- a proxy under a notarized power of attorney from the legal representative of the entity.

In case of an individual, this may be done personally or through a proxy under a notarized power of attorney. Online opening of bank accounts is possible, but in a scenario with a foreign owned local entity/foreign entity there is usually a requirement for a physical meeting(s).

**iv. What is the process of setting up a bank account? E.g., how long it takes, is there a practice to have an interview in the bank?**

The procedure varies with each bank. However, all banks run extensive KYC internal checks, which significantly slow down the entire account opening process and with the whole procedure taking between 1 or 2 months to complete.

## 2. BANKING ACTIVITIES

### **a. What customer due diligence requirements are in place and what is their impact on civil society organisations' banking activities?**

With respect to legal entities (including CSOs), banks expect to receive:

- original notarized (and apostilled, if applicable) excerpts of the relevant corporate registries, evidencing the corporate identity and listed legal representatives;
- copies of articles of association;
- other documents, determined by the bank's compliance department.

### **b. Which internal principles or official (central bank) "suspicious transaction" monitoring criteria are in place affecting the civil society organisations? Is it publicly available?**

Please see our outline under point 3 (a) below on customer due diligence requirements and ongoing monitoring. The criteria applies to all entities, including CSOs. The triggers for suspicious transactions differ between entities based on their internal rules which are presented and approved by the Bulgarian State Agency for National Security ("SANS")

### **c. Do the banks in the country of operations have any restrictions/limitations to bank transactions and transfers to certain jurisdictions (such as high-risk ones).**

#### **i. If yes, is the list of jurisdictions publicly available?**

Bulgaria has not unilaterally imposed specific sanctions to any country or jurisdictions, but as a member of the EU and UN it requires strict adherence to any international sanctions to jurisdictions, entities or persons of concern by any credit/payment institutions. Further, Bulgarian entities are obligated to strictly monitor any relationships with countries included in the FATF lists relation to terror financing, corruption, and AML deficiencies.



**ii. What would be the procedures the bank would follow in this case for their CSO clients?**

Banks will use the same onboarding/monitoring procedures with CSOs as with other legal entities. Nevertheless, CSOs should arguably be considered as customers with a lower risk profile.

### **3. OBLIGATIONS AND REPORTING REQUIREMENTS**

**a. Are banks required to provide CSO clients' financial information to CSO regulatory authorities or public officials? If yes, under what circumstances must banks do so, and what types of information must they provide?**

The Bulgarian Anti-Money Laundering Measures Act (the “**AMLMA**”) requires obliged entities (these include credit/payment institutions) to carry out an on-going monitoring of the business relationships with clients (including the opening and maintaining of bank accounts by CSOs). Further the AMLMA imposes an ongoing requirement to such obliged entities to verify the transactions and operations carried out throughout the course of the customer relationship, as to whether the said transactions and operations are consistent with the risk profile of the relevant customer

On-going monitoring is based on assessment of the risk level of the relevant customers and decisions on which customer due diligence measures and to what extent to apply i.e., identifying the customer and/or the UBOs of a customer and verifying the identity thereof based on documents and data; collecting information on the purpose and nature of the business relationship, clarifying the source of funds, etc. Generally, the credit/payment institutions shall report to SANS whenever there is a suspicion of money laundering and/or that the proceeds of criminal activity are involved, regardless of the value of the operation or transaction or the risk profile of the customer. SANS has ultimate discretion on the next steps in case of such suspicious transactions. Usually credit/payment institutions report such transactions to SANS by simultaneously blocking any pending transactions from the respective account (including the suspicious transaction).

The Bulgarian Currency Act requires that any outbound payment transaction above a certain threshold (depending on whether the destination of the outbound is an EU or a third country) must be reported by credit/payment institutions for statistical purposes to the Bulgarian National Bank.

### **b. What obligations do banks have to protect the privacy of clients' information?**

The Bulgarian Credit Institutions Act (the “CIA”) outlines a definition of bank secrecy, namely “all facts and circumstances concerning balances and operations on accounts and deposits held by clients of the bank“. These include information on the person who has opened and closed a bank account, the availability of funds, the transfers made within the country and abroad, dates and amounts, receiving accounts and the grounds for the transfers. The protection granted to bank secrecy requires that this information is strictly confidential and is revealed to third parties (law enforcement and governmental agencies as well as judicial bodies) only in limited circumstances and in accordance with the procedural requirements described in the relevant law.

Further, credit/payment institutions are subject to the obligations under the EU General Data Protection Regulation ((EU) 2016/679 (“GDPR”)) and are responsible for collecting and processing the client’s personal data in relation to compliance with the rules under GDPR.

### **c. Are there specific reporting obligations for banks to inform governments on civil society banking in certain circumstances?**

There are no specific reporting obligations to any Bulgarian governmental institutions on civil society banking.

### **d. Are you aware of any change in regulation/practice due to the Russian sanctions?**

There have been no changes to local banking legislation in connection with Russian sanctions. Bulgarian credit institutions/financial institutions as EU credit institutions/financial institutions are subject to the EU regulations imposing sanctions against Russia.



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