

EUROPEAN BANKING GUIDE FOR NONPROFITS

HOW TO OPEN AND MANAGE AN ORGANIZATIONAL BANK ACCOUNT



European Center for
Not-for-Profit Law



PILnet



MONTENEGRO

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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

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?

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?

The entity has to be legally present in order to have the account open in Montenegro. Certain actions can be performed by the attorney under the power of attorney (PoA) but in most cases the legal representative of an entity has to physically come to Montenegro.

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)

No, there are no such requirements.

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?

The person has to be present in Montenegro. Certain actions can be performed based on the PoA, which is notarized and/or apostilled, if needed.

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?

It is a very long and cumbersome process to set up a bank account as various paperwork, including all data on ultimate shareholders, has to be provided to the bank (the most common documents - shareholders structure/information, passport copies, company registry extracts for the company opening the account but also for the related companies, various forms which vary from bank to bank have to be filled in). There is no interview in the bank, but an authorized representative must come to the bank to sign certain paperwork.

2. BANKING ACTIVITIES

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

Banks in Montenegro implement enhanced due diligence procedures and require all existing information about authorized persons and shareholders for most entities in the group.

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

There are no specific criteria for civil society transactions; they are under the same scrutiny as other legal entities. The bank has a wide discretion in assessing what is considered what is a transaction outside of the regular course of business. The banks are required to develop internal procedures with instructions on what are the criteria for the transaction to be considered outside of the regular course of business.

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).

Yes, banks in Montenegro tend to comply with sanctions requirements in the USA, EU, and UN. The banks may have their own enhanced lists but these are not publicly available.

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

Yes, but the bank has the discretionary right to assess risk with respect to certain jurisdiction.

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

The procedures the bank would follow are the same as for other legal entities. If the client is immediately recognized as a sanctioned entity, its account wouldn't be opened in the first place. If the client is not a sanctioned entity, but it has a

transaction with an sanctioned entity, such transaction wouldn't be feasible i.e. it would be aborted. The client would be informed about the reasons for abortion of the transaction.

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?

Yes, they are obliged to provide information in case of suspicion on AML activities, terrorism financing, tax evasion, and court procedures. The authorities may request, but also the banks are obliged to inform the authorities in case of suspicion on AML activities, terrorism financing, tax evasion, and court procedures under the Law on Prevention of Money Laundering and Prevention of Terrorism Financing. Also, in case of the court order in the criminal procedure, the banks are required to provide all data and documents about the client which is subject of the court order, including all identification details, transactions performed in a certain period of time.

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

Banks are under bank secrecy and confidentiality obligations, but these may be set aside in case of court order, AML suspicion, terrorism financing, and similar.

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

No, there are no such specific obligations.

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

Yes, all banks in Montenegro with European presence are aligning their policies with the EU sanctions regime with respect to Russian citizens/companies.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.



European Center for
Not-for-Profit Law

European Center for Not-for-Profit Law Stichting
5 Riviervismarkt, 2513 AM
The Hague, Netherlands
www.ecnl.org
twitter.com/enablingNGOlaw



PILnet
199 Water Street, 11th Floor
New York, NY 10038 U.S.A.
<https://www.pilnet.org>
twitter.com/PILnet