Platform of European Social NGOs *Plate-forme des ONG européennes du secteur social*
Square de Meeûs 18, B-1050 Bruxelles, Belgique **T** +32-2-511 37 14 **F** +32-2-511 19 09 **E** platform@socialplatform.org **www.**socialplatform.org

socialplatform

Social Platform response to the consultation on bank accounts

Identification number in the Commission's register: 85083981189-35

Introduction

Social Platform is the largest civil society alliance fighting for social justice and participatory democracy in Europe. Consisting of 46 pan-European networks of NGOs, Social Platform campaigns to ensure that EU policies are developed in partnership with the people they affect, respecting fundamental rights, promoting solidarity and improving lives.

Our response will be limited to section 3 on access to a basic payment account.

To a large extent, we agree with the Commission analysis in the consultation paper on access to a basic payment account: "access to basic financial services ensures that consumers enjoy all the benefits of the internal market and fully participate in the economic and social life of today's modern society". However, as access to a basic payment account is a Service of General Interest, as recognised also by the Economic and Social Committee[1], we consider **it is more appropriate to use the term "user" rather than "consumer"**.

Without a bank account it is virtually impossible to access employment in most member states, as one of the pre-conditions for signing an employment contract for the future employee is having a bank account number. It is furthermore impossible to buy a house, pay daily invoices, and receive social protection benefits. Bill payments can be more time-consuming and costly without a payment account. Moreover, without access to a basic payment account, a great deal of important financial services remains inaccessible. People without access to various means of payment are unable to take advantage of the lower prices of goods and services that internet sales can offer. Not having access to a bank account impacts directly on how included a person is in society.

Question 14: Do you dispose of information on consumers encountering difficulties in access to a basic bank account? What types of obstacles are

[1] EESC Opinion TEN/421 "What services of general interest do we need to combat the crisis?", September 15, 2010

signalled by the consumers preventing them from having access to a basic bank account?

Our members report that users, in particular users at risk of discrimination and exclusion, still encounter difficulties in having access to a basic bank account. This can be explained by a range of factors, from low income, lack of identity card or address, deprivation of legal capacity on the basis of disability, lack of accessibility for all users including persons with disabilities, to a negative registration at a public or private registration office (being classified as someone having defaulted on credit repayment).

The Commission's recommendation on access to a basic payment account provides that "members states should ensure that any consumer legally resident in the Union has the right to open and use a basic payment account with a payment service provider in their territory… Such a right should apply irrespective of the consumer's financial circumstances". This does not happen in many member states. For instance in Spain, due to the economic crisis, banks set out additional requirements to have an external attestation of income. In most cases, to open a bank account, a person has to prove his/her identity (with an ID card or similar) and his/her solvency (a job contract, pay sheet) not even for commercial purposes but to be sure of the money origin. Nevertheless in those turbulent times, the solvency in commercial terms is more and more sought. Social references are also important.

The banking sector traditionally requires many documents for opening a bank account such as identification or an address. These requirements are justified in the wake of fighting illegal financial activities. Nevertheless, many banks across the EU require a national residency address in order to open an account. This requirement should be dropped: a valid address anywhere in the EU should be sufficient.

Members report that some of the documents required to open an account are generally an ID card, residence address, legal capacity, and information on existing debts.
Among those, address requirements, residence permit, and "black-marking" on debt databases are often the most problematic requirements.

Some banks target specific customers and therefore sometimes apply "hidden policies" to select their clients. Some banks offer a free bank account but require a monthly minimum income of e.g. 1000 Euros. People who cannot engage to reach this commitment will have to then pay some fees for a bank account. The costs are often not very high but dissuasive and prevent some category of people from opening an account. These banks are clearly aiming at middle class clients, excluding the poorest de facto. In some countries it is therefore very hard for them to open a bank account.

Members report that over-indebted people face difficulties in opening a bank account especially a bank account with credit card or overdraft possibilities.
It is also very complicated for homeless people and can be difficult for asylum seekers or new migrants when the bank is not aware that there are entitled by law to open a bank account. Homeless people can go through charities or public authorities to get an official address but very often they will not fight for it either due to a lack of resources or because they don't imagine that a bank account can be a doorway to better social inclusion.

The development of inclusive, accessible and non-discriminatory services in opening and managing these basic bank accounts requires enlarging the criteria for access to

a bank account (opening them to all residents), types of documents which can be used for identification (including for example letters of entitlement to benefits), and reviewing regularly creditworthiness assessment procedures.

Particular attention should be paid to acknowledging the specific situation of migrants (including undocumented ones), recognising their particular needs and difficulties. The possession of a residence permit should give the right to the access of banking services. In particular if a member state has very strict rules regarding the granting of "residency" status to immigrants outside the EU, those people cannot have access to financial services.

Besides to vulnerable users, barriers are often faced also by mobile individuals going cross-border (students, workers, etc.). For instance, some banks refuse to open an on-line bank account which has more favourable conditions to EU citizens that have just moved from one country to another, with the justification that they are not registered yet, even if they have a job contract and a rent contract in the hosting country.

This suggests that the number of financially excluded people can potentially be much higher than 30 million.

Question 15: Are you aware of any measures taken by banks or other institutions in the member state where you have your residence to facilitate access to a basic payment account? Have these initiatives been successfully enforced?

France, Belgium, Denmark, Finland and the Netherlands have passed legislation providing for access to a basic account.

In France and Belgium the decision to adopt laws granting universal access to a basic account followed self-regulation which did not live up to the expectations. In France, the law was adopted in 1998. According to a study by CREDOC, 99% of French users have a bank account[2]; however French consumer organisations continue to receive complaints from consumers who have been denied access to bank account. In fact, if a person is denied the opening of a bank account, the person has to address the Bank of France which has offices only in chief towns. Mechanisms to ensure that the right to a basic bank account is universally accessible, available and affordable have to be put in place. It is necessary that users and in particular vulnerable users are not left alone in having access to financial services.

In Belgium, the law was adopted on 24 March 2003[3] and the level of financial inclusion is close to 100%, although access for persons with disabilities remains an issue.

In the Netherlands, citizens have a right to a bank account as a result of an agreement between the banks and the authorities. Furthermore, over-indebted people can open a basic bank account though a specific mechanism involving certified NGOs which meet certain criteria.

[2] « Les conditions d'accès au services bancaires des ménages vivant sous le seuil de pauvreté », Rapport réalisé par le CREDOC pour le Comité consultatif du secteur financier, février 2010

[3] Basic bank account in Belgium

In Sweden, there exists a legislated right to a deposit account, which does not however provide for electronic payment[4].

Germany provides another notable example in favour of a binding legislation. Seven Federal States grant legal access to basic bank accounts for their inhabitants through Sparkassen (Municipal savings banks). BEUC's German member VZBV has reported much less problems in accessing a basic account in those seven Federal States compared to other States[5]. In Germany, more than half a million people do not have a bank account[6].

In the Czech Republic the government is trying to facilitate financial inclusion through short term policies and not only through access to a bank account. For instance, if access to a bank account is not possible, social benefits can be accessible otherwise, for instance by checking in a cheque at the post office. There is also the project of a "social credit card" which would be directly credited by the "job office" with social benefits and could be used at any ATM. This is not implemented yet and it faces some controversy, for instance as it can encourage a certain category of vulnerable people to actually live without a bank account, and might therefore contribute to stigmatize them and exclude them further.

Overall, even if possibility to appeal exists in many countries, vulnerable people often do not have the resources to fight (energy and information) when refused a bank account. They feel discouraged and feel they can "manage" without a bank account, and are most likely to then often give up after a refusal.

Question 16: Do these measures also facilitate access to a basic payment account for non-residents?

Non-residents face difficulties in accessing basic payment accounts. In France, for example, the opinion of the Consultative Committee of the Financial Sector (CCSF, Comité consultatif du secteur financier) on the Commission Recommendation on access to a basic payment account stated that "CCSF has reservations about extending the right to an account to non-residents, given the legal and technical difficulties unresolved to date."[7]

Question 17: If consumers still have difficulties in opening a bank account, what are the reasons for that?

As stated above, low income, lack of identity card or address, barriers to access to all users including persons with disabilities, and negative registration at a public or private registration office (being classified as someone having defaulted on credit repayment) are the most common barriers to opening a bank account.

A recent research carried out in UK into the most vulnerable consumers and their exclusion from banking showed that identification requirements remain a barrier for some people from marginalised groups to become client at a bank. This was

[4] "Basic banking services", European Parliament, Internal Market And Consumer Protection, 2011

[5] See VZBV response to the Commission consultation on access to a basic payment account, Nov 2010

[6] IFF report on overindebtedness, 2011

[7] Avis du Comité consultatif du secteur financier sur la recommandation de la Commission européenne relative au compte de paiement de base, 24 février 2012

particularly the case for new migrants, but also for ex-offenders and homeless people who did not have a fixed address and were not in receipt of welfare benefits[8].

Access to a basic payment account could be limited by rules on the prevention of the use of the financial system for the purpose of money laundering and terrorist financing. Interpretation of anti-money laundering legislation varies across countries, thus leaving room for exclusion of financially unattractive clients. Therefore, we see an urgent need for harmonising the interpretation of anti-money laundering legislation.

In Spain there are two main criteria to guarantee access to bank accounts: the legal framework and the commercial risk. Criteria are public but not transparent. In this sense criteria for admission are available (in the law) but the bank branches do not advertise them. The admission criteria are "internal documents" seen as part of the firm´s strategy (or at least marketing policy).
It is the responsibility of the Office Director whether to accept or not a person as a client, and it is his/her responsibility to check all the information provided. Generally speaking, a bank cannot admit anyone who:
1. Is included in a referential list of criminal activities, published by an official institution (terrorism, illegal activities). The problem might arise with vulnerable people that might have had some minor problems with the police.
2. Although he/she is not in an official list, there are evidences of criminal activities (drug traffic, arms, prostitution, gambling…)
3. Runs a business which cannot be proved as having a legitimate purpose, activities or that cannot guarantee where money comes from
4. Is undocumented and cannot provide evidence of who he/she is
5. Does not provide data and information about his/her economic activity. Here again it becomes a problem for unemployed people, young people, migrants, etc.
6. Is included in the RAI /ASNEF (Registry for Unpaid): a private registry set up by the financial sector where a person is included if he/she does not pay a bill or a credit.

Furthermore, **discrimination on the basis of race, ethnic origin, disability and sexual orientation in accessing bank accounts, is still rife**. For instance, some studies show that making basic financial services – such as savings, payments, and credit – accessible to Roma should be a key component of inclusion efforts[9].

A part from the specific situations explained in question 14 (a minimum monthly amount in the bank account, address and residence requirements) the two main drawbacks in opening a bank account are when customers are rude or aggressive to bank staff or when they have payment histories.

In Denmark, in the rare cases when a bank refuses to open an account on the grounds of rude or aggressive behavior the consumer has a real problem, as then he/she would be prevented from making transactions with any official institution. If a consumer is denied opening an account and he feels the cause for this is not just – he can make a complaint to an independent advisory board (Pengeinstitutankenævnet) who deals with disputes between banks and consumers. If Pengeinstitutankenævnet rules that the consumer is entitled to open an account the bank will (most likely) follow that ruling. The problem is that, as underlined in

[8] Consumer Focus research, UK, June 2010: http://www.consumerfocus.org.uk/publications/on-the-margins
[9] Open Society Foundations, *Financial Inclusion for the Roma: Banking as a key to Social Progress*

question 15, often vulnerable people don't have the resources to start such a procedure.

Persons with disabilities, if deprived of their legal capacity, are denied access to bank accounts as well as to any other banking services, although this is in breach of article 12 of the UN Convention on the Rights of Persons with Disabilities. At the same time lack of accessibility of ATM, bank premises, and online banking result in exclusion and discrimination. Some banks have put in place measures to redress this, and technology is available too. However implementation is still patchy. To overcome this, alternative measures should be put in place such as, phone banking, access to the teller operations with no extra costs.

Transgender people who do not intend to undergo gender reassignment, or are in the process of undergoing gender reassignment experience several difficulties in access to financial services, irrespective of the service that they require. As a result, they will always need to come out to the people/companies from whom they are accessing the service as their accounts or bank cards will state a different gendered name that does not match their own gender.
Dutch law requires that persons undergo "complete gender reassignment" prior to their change of gender on their birth certificate. As a result, many transgender people do not have access to identification documents in accordance with their gender role. This is particularly true for those transgender people who are still undergoing gender reassignment, or who do not need or cannot access gender reassignment for health, religious, age or other reasons.
As a result of the above, complaints were received from the Dutch transgender community claiming that they cannot convince their bank or their insurance company to address them in their preferred gender role. To put things in perspective, while banks and insurance companies have to screen their clients' information at least once a year, and compare their files with the birth registry of the Netherlands, these companies claim that it is an extra burden for them to change the gender data of their clients so as to align it with the sex recorded on the birth registry. Banks and insurance companies hence state that they need to maintain the old gender marker on their records.
In Belgium, a bank customer reported the following case:
"As a customer of a credit card company claiming an unjustified booking on her credit card she faced great difficulty in proving her identity to the credit card company's call-centre worker. Her interlocutor would not believe that she was the lawful owner of the credit card as her voice was that of a man".

Finally, caution must be taken to new products proposed by banks, such as internet managed bank account. These can lead to new discrimination on the basis of digital exclusion with higher interest rates for instance for internet banking users. This is especially true for people with low income or who currently have no access to / use of a computer or internet. Therefore, it is necessary to ensure universal access to other basic services, such as the internet (i.e. ensure e-accessibility, web-accessibility and affordability), and to put in place measures to bridge the technological gap and to address the difficulties that some groups may face to approach ICT (lack of knowledge and financial costs).

Question 18: If more needs to be done what additional measures should be envisaged? Should the problem be tackled at national or EU level?

Last year some of our members regretted by the means of an open letter that the Commission withdrew the announced legislative proposal on access to basic payment

accounts. One year after the adoption of the Commission Recommendation, we do not think that there has been significant progress through self-regulation and we do not expect substantial changes as a result of implementation of the Commission Recommendation in countries where there is no legal right to a bank account. Therefore, we consider that an active role of the EU is necessary in this area if we really want to fight financial exclusion.

A response to financial exclusion requires looking beyond the lack of access to a basic bank account, which is in many cases rather the symptom of a much broader and deeper financial exclusion circle. In particular, access to credit, savings and insurance, as well as over-indebtedness should also be looked at carefully.

What we propose:

- **Propose a directive at EU level with explicit acknowledgement that access to a basic bank account is a service of general interest:** as such, it cannot be left to market mechanisms only and should be subject to regulation. An EU directive on the right to a basic bank account should clearly build on the objectives of quality, safety, affordability, equal treatment and the promotion of universal access and of users' rights, as recognised in Protocol 26 on Services of General Interest of the Lisbon Treaty.

- **Ensure free access to basic banking services (bank account and payment cards). Ensure that access to bank accounts is free of charge, cover a number of relevant services and is accompanied by accessible, affordable, quality services** such as those suggested by the Economic and Social Committee: affordable loans, subject to state micro-credits or guarantees; decent housing and access to energy (e.g. for the homeless and migrants); home-care facilities (e.g. for older people or other dependent people); social services (e.g. for vulnerable users); specific measures for people with disabilities; mobility; secure access to digital services (e.g. for older people, people with low income, persons with disabilities)[10]. It is also necessary to ensure provision of accessibility and reasonable accommodation for persons with disabilities, and creation of alternative measures such as, phone banking, access to the teller operations with no extra costs.

- Make sure that basic services for ensuring financial inclusion include services such as: payment card, free or low cost bank statements, withdrawals and transaction cheques, direct debit or standing orders, no overdraft possibility, making remittances. Access to loans should not be linked to subscription to life insurance if discriminatory towards persons with disabilities.

- **Oblige all providers to offer basic bank accounts to all people resident in Europe**, to genuinely ensure that all those residing in Europe have access to basic financial services.

- Acknowledge, encourage and strengthen the commitment and expertise of "alternative providers", such as social economy or non-profit initiatives (e.g. credit unions, ethical banks) that have been developed in a number of member states. Develop partnerships between financial institutions, public

[10] EESC Opinion TEN/421 "What services of general interest do we need to combat the crisis?", September 15, 2010

authorities and civil society organisations to set up measures and pathways to prevent and tackle financial exclusion and over-indebtedness.

- **Appoint a competent authority in all member states to assist people in the case of a refusal from the bank**, to provide information on the eligibility criteria to be entitled to a basic bank account, and to give advice on what do and whom to contact. This service should be accessible and free of charge (for instance a free telephone number per country, and several addresses and physical contact points in the country, etc.).

- Consider the opening of a basic payment account only the starting point and **engage in adopting a broader approach to promote financial inclusion, covering access to credit, savings and insurance, as well as the growing problem of over-indebtedness**, which has increased as a consequence of the economic crisis and is also due to unfair credit and lending practices[11]. Two key examples of areas linked to over indebtedness which need to be addressed by EU policies are quick loans (SMS loans) and debt collection agencies, which are both often hugely detrimental to vulnerable people across Europe in some of their practices, and are most of the times operated by transnational companies.

  In fact, having access to a basic bank account does not mean that the risk of financial exclusion is eradicated. For instance in France, the fact that 99% of French people have a bank account[12] might seem an idyllic situation. However, according to the same study, 81% of people living below the poverty line have access to a payment card, against 93% of the total population. Therefore, there are significant differences. As regards the use of a payment account, the study shows that 24% of households living below the poverty line pay cash (against the 8% of the total population), and when they have a payment card, the 25% of those households never use it.
  Furthermore, 1,7 million people are subject to banking sanctions as they are registered in the central cheque register and 2,5 million are listed in the file of accidents in repayment of consumer credits. The number of over-indebtedness files submitted every year to the Bank of France has constantly increased during the last twenty years. In September 2010, more than 780.000 households were in the process of debt reduction. Finally, 82% of over-indebtedness files submitted in 2010 contain renewable credits (an average of 4 per file)[13].

- At EU level, mainstream the protection of vulnerable people against financial exclusion, through consumer protection (education, information), by gathering information, by monitoring and regulating potential dangerous practices in the internal market such as advertising.

Contact person for this paper:

Valentina Caimi – Policy Adviser
Telephone +32 (0)2 5081636 – email: valentina.caimi@socialplatform.org

[11] European Commission, *Financial services provision and prevention of financial exclusion*, March 2008

[12] « Les conditions d'accès aux services bancaires des ménages vivant sous le seuil de pauvreté », Rapport réalisé par le CREDOC pour le Comité consultatif du secteur financier, février 2010

[13] Secours Catholique, Unccas, Croix-Rouge française, *Manifeste pour l'inclusion bancaire en France des populations fragiles*