

FINANCIAL INCLUSION IN EUROPE FOR PEOPLE EXPERIENCING HOMELESSNESS: BASIC BANK ACCOUNT ACCESS

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INTRODUCTION

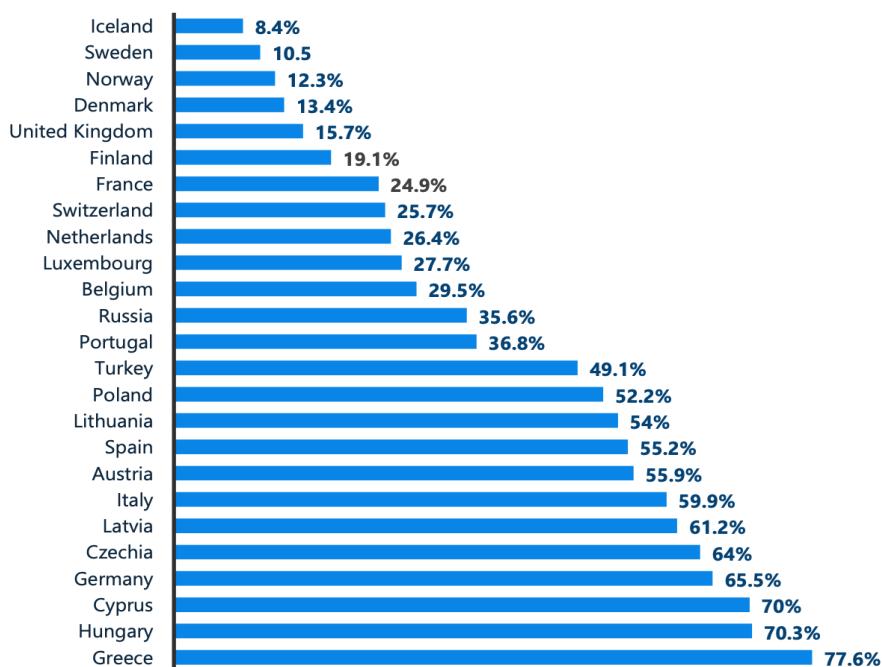
Around the world, countries and financial systems are constantly changing and transforming into increasingly cashless and digitalized societies. As a result, digital currencies and cashless transactions are becoming a frequent occurrence in day-to-day life. Participation in economic and social life is now contingent upon having access to financial services.

Below is a graph from 2018¹. It depicts from top to bottom countries' use of cash. Cash is used more in Greece than it is in Iceland.

The World Bank defines financial inclusion as when "individuals and businesses have access to useful and affordable financial products and services that meet their needs."² From a different perspective, the European Commission describes financial exclusion

as "a process whereby people encounter difficulties accessing and/or using financial services and products in the mainstream market that are appropriate to their needs and enable them to lead a normal social life in the society in which they belong."³ This is particularly relevant in the case where many marginalized communities may find it difficult to use or gain access to adequate financial tools which in turn can contribute to an even deeper exclusion from society.

Moreover, financial exclusion is heavily linked to both social and economic exclusion. A bank account is vital to a societal member's engagement in day-to-day transactions and their involvement within the finance world. Individuals' continued exclusion within an increasingly cashless framework will lead to an inevitable seclusion of these groups. While this phenomenon is relevant to many countries around the world, this paper will focus on



Note(s): Europe; 2018; estimates based of data from domestic sources and concerns transaction values
Source(s): IMF; PYMNTS; ECB; BIS; Norges Bank; Central Bank of Iceland; The Riksbank. [ID 1112656](#)

1 <https://paystree.com/news/is-cash-no-longer-king-in-europe>

2 <https://www.worldbank.org/en/topic/financialinclusion/overview>

3 Financial services provision and prevention of financial exclusion, European Commission, March 2008.



various countries throughout Europe. For this purpose, we will engage with European legislation established to prevent such exclusion from taking place as well as with data collected from the ground.

The purpose of this paper is to critically analyze the implementation of the EU Payment Accounts Directive (PAD)⁴ in connection to the Anti-Money Laundering Directive (AMLD)⁵ throughout financial institutions in Europe, specifically in relation to people experiencing homelessness, including destitute mobile EU citizens. Particularly we will focus on how the intersection of the two directives on the implementation side has so far contributed to excluding destitute people from equal access to opening a basic bank account, together with gaps in the implementation of each directive at the national level.

By combining the experiences of colleagues from organizations across the EU engaging with marginalized groups, along with pertinent research and data, this paper aims to offer a holistic understanding towards the issue of financial inclusion for people experiencing homelessness. Citizens living in precarious conditions may lack the possibility to supply certain documentation required by financial institutions, therefore leading to the exclusion of people experiencing destitution, homelessness, or precarious residence status. To avoid this, European legislation has sought to protect the rights of all people to access basic financial services. However, financial institutions and banks across Europe have varying executions of the same policies listed in the directives mentioned above. Investigating the challenges that a lack of bank account access poses to vulnerable groups and surveying beneficial and negative practices in the financial system will assist in discovering possible solutions to this major problem.

The rights of people fail to be implemented under the EU legislation. Compiling relevant documentation which exposes the denial of a basic bank account towards disadvantaged communities will serve to strengthen advocacy and further engage with possibilities of litigation or formulating complaints to relevant bodies. It will add urgency and create informed discussions surrounding bank account access and financial inclusion at a local, regional, and national level. This paper aims to lead to the eventual turning point of vulnerable members' inclusion and representation in the economic system that ensures their adequate access to a basic bank account.

METHODOLOGY

This paper serves to critically understand the two relevant directives known as the PAD and AMLD and to highlight existing gaps in their practical implementation by financial institutions. Desktop research was utilized to assess the set guidelines written in the PAD and AMLD which guarantee access to basic bank accounts for consumers and, respectively, protect the financial system. For the author to become familiar with the terminology, language, and proper procedures involving bank account access through financial institutions, desktop research was initially necessary. To complement the information collected from the directives, articles and other open publications, interviews with colleagues working at organizations around Europe were conducted to provide awareness about the translation of policy at a national level into real-life experiences.

Access to some organizations was gained through FEANTSA members. The organizations contacted for interviews engage in daily work with the targeted populations, people experiencing homelessness who could

4 <https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32014L0092>

5 <https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32015L0849>

be national citizens or migrants, both mobile EU citizens or asylum seekers/refugees. The service providers were knowledgeable on the topic of financial inclusion and were eager to convey their views on this matter. The selection of organizations stemmed from their experience with the issue of financial inclusion, cashlessness, and access to bank accounts. Overall, nine organizations were interviewed, and their perspectives were the basis for writing this paper. The interviewees relayed the hardships and challenges some vulnerable groups experience related to financial inclusion in their respective cities. Such experiences shed light on the commonalities of obstacles marginalized groups face despite the EU legislation aiming to ensure that no one is left behind in an ever-evolving world. (and note on time period + update in early 2024)

The questions posed to interviewees were related to organizations' everyday work, the context of the topic (inclusion & bank account access), policies in the applicable directives, and potential actions to be taken in terms of advocacy or practical support. Each main question had follow-up questions related to the specific target group of interest and certain processes unique to some countries.

THE PAYMENT ACCOUNTS AND ANTI-MONEY LAUNDERING DIRECTIVE

The European Union enacted Directive 2014/92/EU, the Payment Accounts Directive (PAD) in 2014. This directive established requirements for banks and other payment service providers regarding the comparability of fees associated with payment accounts, the opportunity to switch payment accounts,

and providing all EU consumers with access to payment accounts with the most basic functionalities.⁶ All Member States were required to transpose⁷ the Directive at the national level and subsequently to offer standard payment accounts and payment accounts with basic features.

The PAD establishes a right of access to a payment account with basic features for all consumers, including "low-income consumers, people with no fixed address and asylum seekers, and consumers who are not granted a residence permit but whose expulsion is impossible for legal or factual reasons."⁸ Moreover, for EU residents who do not have access to the financial system, the PAD should ensure access to a basic bank account. The HSBC Global Private Banking claims the PAD is being carried out by EU countries with the primary goal of promoting the efficiency of the EU internal market for payment accounts.⁹ By September 18, 2016, EU Member States had to implement this directive's requirements into national legislation meaning the right to access a payment account should apply to all consumers, irrespective of location. The PAD intends to guarantee access to basic bank accounts for consumer residents in the EU **without requesting a fixed address**. With the goal of promoting financial inclusion, the directive aims to address the needs of potentially vulnerable population groups—the elderly, migrants, young individuals, customers with low incomes and/or education levels, and the unemployed. A report analyzing the PAD emphasized, "**financial inclusion is an aspect of social inclusion in the EU, where, for instance, it is necessary to have a payment account in order to receive wages, pensions, replacement income and social benefits.**"¹⁰ Access to a basic bank account acts almost as

6 <https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32014L0092>

7 Transposition is the process of EU law and policy reaching the national level.

8 <https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32014L0092>

9 <https://www.privatebanking.hsbc.com/about-us/financial-regulations/payment-accounts-directive/>

10 <https://doi.org/10.1108/IJDI-07-2019-0122>

a prerequisite to experiencing economic and social assimilation in EU Member States. It is a necessity in order to utilize beneficial services to meet specific needs within a society.

Currently, the level of transposition on the Payment Accounts Directive differs per the 27 Member States as evaluated by a previous FEANTSA paper.¹¹ Based on a review of the national laws governing the opening of basic payment accounts,¹² it was observed that several countries did not state the exemption of an address to open a basic bank account in the national transposition of the PAD, while others did specifically specify natural persons as being allowed to open a basic bank account even if they do not have a fixed address.

While the full paper goes into more depth on how the EU legislation on the PAD spans out differently at the national level of Member States, it is important to note that improvements are needed since there is an obvious disparity between how each country regards the need to guarantee a payment account to people without addresses or who cannot provide the necessary documentation, which might lead to inequalities. Adding to this analysis, the current paper focuses on collecting data from the ground and identifying challenges and barriers experienced by individuals. Also, it further explores ways of redressing the situation, from identifying solutions to possible mechanisms of complaining to relevant bodies.

Another relevant directive is the EU Anti-Money Laundering Directive.¹³ The European Union (EU) has continuously enhanced its framework to combat money laundering and terrorist funding, ensuring that AML legislation is applied consistently across the single

market, and safeguarding the financial system during the past three decades.

Periodically, the European Parliament issues the EU Anti Money Laundering Directives (AMLDs), which are to be incorporated into national laws by Member States. Each directive contains updated or new regulatory requirements for member-state governments. It includes a set of regulations aimed at preventing money laundering and terrorist financing within the European Union. The AMLD requires Member States to implement measures to identify and prevent money laundering, such as customer due diligence, reporting suspicious transactions, and maintaining records of financial activity. The most recent version, adopted in 2018, also includes provisions related to the use of virtual currencies and anonymous prepaid cards. However, the focus here will be on the terminology used in the 2015 version¹⁴ and a conflicting area between the PAD and AMLD. Compliance of both the PAD and AMLD can cause significant challenges for banks and financial institutions, while posing barriers for already vulnerable groups. To combat acts of fraud, regulations entail asking for proof of specific documents that the PAD deems unnecessary for groups in vulnerable situations, such as homeless individuals.

Despite both directives supporting financial inclusion by setting guidelines to guarantee access to basic bank accounts for residents and to protect the financial systems, it is noticeable that when transposed at the national level irregularities appear across the Member States. While the PAD intends to guarantee access to basic bank accounts for consumer residents in the EU without requesting a fixed address, in practice, financial institutions continue to require proof of address when applying for a basic

11 Financial inclusion of people experiencing homelessness in increasingly cashless societies, FEANTSA, 2022.

12 https://www.feantsa.org/public/user/Resources/reports/2022/Financial_Inclusion_Report_final_22_final.pdf

13 <https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32015L0849>

14 <https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32015L0849>

bank account. Considering that many people experiencing homelessness, as well as migrants, asylum seekers or refugees, do not dispose of an address, this leads to the exclusion of those who are unable to provide such documentation.

Through identifying gaps in the implementation of policies listed in the PAD and AMLD, we observe irregularities in the execution of services by banks across EU Member States. The real-life experiences of disadvantaged populations emphasize that the PAD fails to be enforced correctly in some countries and change needs to occur. Furthermore, the interviews carried out for this paper provided additional support towards the collection of information and documentation on the level of access to bank accounts for people experiencing homelessness. This body of knowledge can drive conversations on potential solutions for homeless populations' financial inclusion and bank account access and acknowledge insufficient practices. A bank account is vital to securing economic rights for people experiencing homelessness in increasingly cashless societies. As a result, this research will go towards making this issue more visible across the EU and push for change in the implementation of the directives to improve the lives of people facing homelessness and challenging situations.

REAL WORLD APPLICATION

Around the EU, financial institutions are expected to execute policies in coordination with the PAD and AML directives. From the EU to a regional level, banks must carry out regulations to ensure that legislation is effectively translated into society. In this process, the European Bank Authority (EBA), which is a regulatory agency of the EU responsible for supervising and regulating the banking industry across the EU is also responsible for issuing guidelines to support

the actions of financial institutions and for promoting a shared understanding of EU policies, such as the AML directive. The EBA was established in 2011 and has the power to make and enforce regulations, conduct stress tests on banks, and investigate potential financial misconduct.¹⁵ Its main goal is to promote financial stability and protect consumers across the EU against a national competent authority, or relating to a credit or financial institution.

In practice, while the legislation and guidance come from the EU level, a lack of facilitation and restrictive application of such policies lead to several variations in their implementation. To adhere to the PAD, banks and financial institutions need a clear understanding of its requirements to comply with the necessary measures. All payment account providers should be able to offer basic bank accounts to all customers, regardless of their financial situation. In application, this would mean that any individual, in accordance with the PAD, who walks into a financial institution and desires to open a basic bank account should be able to do so. Employees and bank workers would be expected to service the client while being knowledgeable of the PAD and the individual's rights.

Likewise, to comply with the AMLD directives, banks and financial institutions should implement strict measures to prevent money laundering, such as conducting thorough customer due diligence and monitoring transactions for suspicious activity. They should also provide transparent and accessible information to customers regarding fees, account terms, and conditions. It is essential that banks and financial institutions prioritize the protection of their customers' financial interests while also complying with regulatory requirements.

For this to become a reality, certain needs are identified on the ground. Firstly, employees in financial services should be trained and

equipped to deal with any issues that may arise. They should also be up to date with the latest developments in the legislation. Regarding the AMLD, this includes conducting customer due diligence, identifying and verifying the identity of customers, monitoring transactions for suspicious activity, and reporting any suspicious activity to relevant authorities. Financial institutions and banks must stay up to date with regulatory requirements and guidelines, as well as regularly review and update their internal controls and risk management systems. Additionally, staff should receive regular training on AMLD and PAD regulations to ensure that they are able to identify and report suspicious activity accurately and efficiently while complying with requirements to ensure equal access for groups in vulnerable situations.

While the PAD serves to promote financial inclusion and the AMLD aims to prevent financial fraud and terrorism, there are obstacles that arise when the two instruments interact in practice. Through interviewing organizations that work with vulnerable groups such as people experiencing homelessness and destitute mobile EU migrants daily, we analyzed their perspectives towards the execution of the directives. They shared their experiences of how the directives look when translated into real life through services being offered and the requirement of documents.

In Hungary, out of all the organizations interviewed around Europe, BMSZKI provided information that conveyed the EU directives were effectively implemented. People facing homelessness and destitute mobile EU migrants experienced no hindered access to opening a bank account. Partly, this is explained by the fact that financial institutions allow people experiencing homelessness to use the address of a shelter or organization to open a bank account. It is important to note that cash is still dominantly used in Hungary

which may aid in explaining the difference in experience from other populations around Europe. It is also relevant to highlight here the role of the homelessness sector which acts as a facilitator by granting people the possibility to use their address. This comes automatically with additional resources being allocated to this process, putting more pressure on the services. In other countries, the homelessness service providers may not have this possibility at all, leaving people without solutions. Therefore, a more structural approach is needed to ensure the right to a basic bank account and consequently to obtain financial inclusion.

Within Belgium, while accessing a bank account should be a human right due to PAD, in practice “social workers or workers at banks are ill-informed and lack knowledge surrounding the directives. They are unable to put into practice what they do not know.”¹⁶ The European directives should not worsen situations but in the context where the legislation is not known and consequently not respected, in a context of increasing digitalization and cashlessness, the gap between policy and real-life practices becomes harmful.

Aligning with the PAD, financial institutions should provide a basic bank account, including for people experiencing homelessness. Unfortunately, this is not the case in Belgium, where there is a lack of support towards people experiencing homelessness. To achieve the right to a bank account, professional support from workers who are well-informed on policies and services offered by the directives is required.

Another significant issue is the collection and verification of identifications which is held by the financial institutions in Belgium, such as an ID, passport, proof of address etc. This serves as a liability as institutions do not want to take risks. As a result, financial institutions are more likely to turn away a homeless

person who cannot provide all required documentation. It is far too complex for banks to be the main executors of the directives in Belgium. Instead, a higher administration should look at the liability of documents like ID or proof of address. For example, the EBA should oversee different financial institutions more closely and monitor such activities.

In Denmark, the problem with the implementation of PAD is that "it is viewed as a generic directive as it does not provide concrete national guidelines but is an overall regional area of law. As a result, this has led to a lack of national interpretation and implementation."¹⁷ It is also observed that for foreigners who do not yet have an address in Denmark, it is more difficult to open a bank account as they require additional documentation to prove their address in the origin country. Social workers have learnt the European legislation as well as the procedures implemented by the banks, so they can offer support in clarifying cases where documentation is missing. They also represent the client with the bank and facilitate communication and ensure that the bank account is finally opened under the EU legislation. Another challenge that is critically inhibiting access to a bank account for beneficiaries of Kompasset in Copenhagen is that virtually all banks require applications and communication between banks and clients happens via e-mail or digital post. Many people lack the digital literacy required to navigate such a digitalized system.

The Danish colleagues see a stronger role as well for the EBA in advising banks on how to adjust their policies to conform to the EU directive: "the EBA needs to set clear guidelines for the directives implementation." At the national level, in 2022 the Danish Finance Authority issued a statement about

the illegal practice of banks who refuse to open bank accounts on the basis of a lack of permanent address.¹⁸ This, however, did not change much about the situation in practice, and in 2023 the same institution stated that they would look into the issue after continuing to receive complaints.¹⁹ In general, however, "overall, there is a big gap between the EU directive and what is carried out by banks."²⁰

A lack of access to a bank account in an increasingly cashless society such as the Danish one results in most companies not paying a salary to an employee who does not have a bank account. In Denmark, employers will withhold salaries as they cannot pay them in cash. Gaining access to a bank account is a multilayered process that excludes many. Since often people experiencing homelessness and migrants are unfamiliar with such policies, they are not aware that they can submit a complaint. Simultaneously, many bank employees are not aware of the rights people have according to the directives. Additionally, upon an increased effort to implement anti-money laundering measures, migrants and other groups of vulnerable people are caught in the middle of legal contradictions and inadequate guidelines.

A key issue with bank account openings for vulnerable groups stems from the requirement of a tax number for vulnerable populations. Stefanie Beckmann at Europa.Brücke. Münster plus stated that in Germany "so many homeless members and mobile EU citizens have been denied access to a bank account due to not having a tax number." A tax number is only given on two occasions. One is through work, after obtaining a work contract, and the other can only be received through official registration. Official registration can be granted if you live in a shelter. Moreover, mobile EU citizens who do not live in a shelter

17 Interview with Camilla Ida Ravnbøl, Denmark

18 https://www.finanstilsynet.dk/Nyheder-og-Presse/Pressemeldelser/2022/Basal_betalingskonto

19 https://www.finanstilsynet.dk/Nyheder-og-Presse/Pressemeldelser/2023/Basal_betalingskonto_070823

20 Interview with representative of Kirkens Korshær

and are searching for work would be rejected. And homeless individuals who live on the streets instead of in a shelter would be rejected as well. Banks often try to exclude homeless EU citizens without a tax number. In her work, Stefanie noticed that “if you apply online, access to a bank account is more accessible as a tax number is not required right away. Nonetheless, you need the tax number later down the road to maintain the account.” Conditioning a tax number to employment largely excludes people experiencing homelessness who are not working.

In Norway, everyone should have access to a basic bank account, but that is not the case. Norwegian society is highly digitalized and digital documentation is needed for identification, which not all groups in vulnerable situations can supply – requiring getting help from NGOs working/supporting the target group. In Norway, the Bank ID acts as a token which you need and is only provided if you own a personal number, which is equal to being considered a resident of Norway. A ‘D number’ or a personal number is required to open a bank account, along with a working contract, passport, and other documents. The ‘D number’ is difficult to get for newcomers and those who aren’t working. Therefore, you need digital access to open a bank account. You also need an address to apply for a bank account and the guests at Kirkens Bymisjon can use the organization’s address as a post address. Consequently, they struggle with gaining access to a bank account. Bianca Irina Cristea, Marit Nybø, and Mari Seilskjær at Kirkens Bymisjon gave their own personal accounts of how common it is for people to be turned away at banks in Norway. Sometimes a homeless individual or a mobile EU citizen could be turned away based on appearance due to the biased behaviour of the staff.

Regarding the EU directives, Mari a lawyer at Kirkens Bymisjon shared that “the legislation in the PAD is fair and correctly transposed at national level, but the bank’s execution and practice is problematic.” Banks are responsible for adopting such policies but fail to put the directives into proper practice. As a

result, beneficiaries of Kirkens Bymisjon have difficulties accessing the services that they are entitled to.

Norway has an ambition of excluding cash from society and several NGOs have pointed out that not everyone has access to a bank account. Some of the destitute migrants are either begging or collecting bottles and receiving cash without any possibility of putting it into bank accounts. As a result, the government summoned a commission that will investigate the use of cash in Norwegian society and ensure safe and easy payments for everyone.

Beatriz Fernández at Arrels Fundació participated in a written interview where she shared her insights regarding the PAD and its lack of impact on financial institutions in Spain. Even though these directions have been incorporated into Spanish law, “the people with whom we work at Arrels can attest that they have not changed.” Additionally, the population that is in this predicament and many of the organizations that work with these groups do not know these provisions in the law. It is possible that the Directives’ goal is to improve financial inclusion, but the issue is how financial institutions use them; they fail to advise clients in vulnerable circumstances of their available options. From Arrels’ perspective, “the entities restrict the opening in a number of ways if an informed professional requests that basic accounts be processed: by setting specific hours for opening, restricting access to online users only, requesting documentation that is frequently challenging to obtain, or denying that basic accounts even exist. The need for assistance from a professional or social organization in order to complete a financial transaction or open an account is highlighted in Spain as well.

Another major issue within Spain is that the banking organizations have a cap on the total number of basic accounts they can grant each month. However, the EBA does not provide support towards this procedure and there is no authority which regulates this constraint.

In Finland, groups in vulnerable situations may

have an easier experience with opening a bank account. Nonetheless, Sanna Tiivola at No Fixed Abode stated that “people still do not gain access to something called ‘digital keys.’” These ‘digital keys’ are needed to redraw money and pay bills. As a result, “even if granted a bank account, they struggle with maintaining it.” Consequently, they would still need to be paid in cash rather than having money deposited. An even more pressing issue is the digital tools required for vulnerable populations to access their bank account. Going to a bank physically costs money and there may be a fee to access the keys. So even after being granted a bank account, people continue to be excluded.

Elizabeth Peña from Peter McVerry Trust shared her insight on people experiencing homelessness and their access to a bank account in Ireland. “Homeless populations lack access to bank accounts but there is also the issue of them not being fully aware of financial tools and how cards work.” There needs to be knowledge shared on financial literacy so that gaining access to a bank account will serve as a benefit, rather than driving people further into debt; the bank account should serve to include them in society rather than serve as another barrier. She made sure to emphasize that “[i]n Ireland holding a bank account possesses many benefits such as getting access to a job, seeking an education, and continuing employment.” Those who are part of a vulnerable group and work usually have access to a bank account, but they still need more support on how to manage it.

Karin Asplund and Susanne Rosén from Stockholm Stadsmission were able to provide their input from working with vulnerable groups in Sweden. They assessed that vulnerable groups like people experiencing homelessness, among them mobile EU citizens, are rights bearers, but they are very much unaware of their entitlements. The personnel at the banks are unaware and neglect these rights: “One bank may ask for your ID and personal number. While another will ask for proof that you are employed.” There are different procedures across banks all over Sweden and each

scenario differs.

Most notably, Stockholm Stadsmission colleagues have highlighted that “almost always, there is no written explanation on why someone was rejected from opening a bank account.” Vulnerable populations are simply rejected with no clear information given as to why. They could have printed out their rights and information from the PAD but still be rejected. There is also “no one there to assist the vulnerable member or the bank worker, make sure the transaction that takes place abides with law, or take notes and verify conversations.” It becomes a structural issue which has an impact on the lives of many individuals, contributing to maintaining them in their marginalization.

Generally, no mobile phone number or proof of holding a job is needed. Rather, people are often stopped in the process and denied access because of how they look. They expressed that, overall, there is a gap between the legal rights and what banks are doing in practice. Language is also an issue: “A lack of information and communication through language issues also serves to harm the people who need help the most.” There is a conflict between legal rights and internal issues within financial institutions. Bank employees are usually hostile, and they find it easier to refuse than to support vulnerable groups. Providing a written justification of why the rejection took place and how it is supported by law must be done by banks. In such situations, the homelessness service will act to provide support from point A to B such as acquiring a job and supporting people to access other necessary support.

REDRESSING MECHANISMS

a) Potential Solutions

When addressing the issue of financial inclusion, it is imperative to look for solutions at an EU, national, and regional level. A potential solution can be to increase the evaluation and monitoring of how EU legislation is implemented

in practice by designing measures that guarantee a greater facilitation of policy into action. This can involve periodic check-ins with financial institutions and banks across Member States. It is important for the EU to design laws and policies that reach the target populations. The EU playing an active role in overseeing the implementation of the PAD and AMLD would prove beneficial towards the financial inclusion of vulnerable groups. Additionally, at the EU level, there should be greater consideration towards making sure that the terminology of language in the directives does not conflict, and is understandable. It will prove difficult to try and implement directives which are not understood by the general public.

At a national level, financial bodies must ensure that the 'proof of address' is not required in cases where people who fall under the scope of the PAD Directive apply for a basic bank account. A solution concerns ensuring that financial institutions can comply with the EU directives along with jurisdictional regulations. It is key to invest more in analyzing how proposals made at the EU level can be brought down and implemented in different national societies based on available resources. Also, there should be national training guidelines for all staff to ensure bank personnel and professionals are well-equipped to exercise standards expressed in the PAD and AMLD directives. This can help to resolve the issue of lacking knowledge of the PAD and AMLD and their provisions. Additional training regarding discrimination against people facing homelessness and other vulnerable populations should also be included when building the capacity of bank personnel.

At a more local and regional level, it would be good practice to review the rejections of all individuals who wanted to open a basic bank account. It is important to look at such

rejections to review if they comply with PAD and AMLD standards. Financial institutions must also ensure that they provide a tangible written or printed explanation for each rejection in due time as specified in the PAD Directive (10 working days). This would in turn allow for a possible complaint to be submitted.

b) European Bank Authority Role

When looking at the issue of financial inclusion for people experiencing homelessness in relation to the Payment Accounts (PAD) and Anti Money Laundering Directive (AMLD), along with the inequalities disadvantaged communities face, the European Bank Authority can have an important role given its ability to issue guidance and support financial stakeholders in the implementation of policies. A further redressing mechanism at the level of the EBA is the possibility of submitting a complaint against financial institutions.

Among its responsibilities, "the EBA may investigate an alleged breach or non-application of Union law of a competent authority."²¹ The process to submit a complaint to a national competent authority includes first checking the admissibility of such a request by sending relevant information via email to legal@eba.europa.eu, or via mail.²² A list of accepted documents and information²³ has been established by the EBA as well.

The EBA conducts investigations in accordance with the European Banking Authority's Decision Adopting Rules of Procedure for Investigation of Breach of Union Law. Regulations provide the conditions for admitting cases for investigation. Simultaneously, they outline how requests to commence an inquiry should be filed with the EBA, as well as how the EBA should initiate and conduct those investigations. Within

21 <https://www.eba.europa.eu/contacts/complaints/complaints-against-a-national-competent-authority>

22 EBA Chairperson (Confidential), Floor 25 Tour Europlaza, 20 avenue André Prothi CS 30154, 92927 Paris La Défense CEDEX, France

23 <https://www.eba.europa.eu/documents/10180/16172/Complaint+against+a+Competent+Authority.docx/18851b9b-7bed-4e22-91a2-b52cb7a631dd>

two weeks, the EBA will confirm receipt of the request. Likewise, to submit a complaint to a credit or financial institution three key steps need to be followed: make contact with the credit or financial institution, submit an official complaint, and contact your country's responsible authority or the Ombudsman.

In March 2023, the EBA published guidelines outlining the actions institutions should take to facilitate access to financial services for those customer categories that the EBA's investigation had identified as being most susceptible to unjustified de-risking.²⁴ Through these guidelines, the EBA promotes a shared understanding of effective money laundering and terrorist financing (ML/TF) risk management techniques among institutions and anti-money laundering and counter-terrorism financing (AML/CFT) supervisors in circumstances where it is important to guarantee clients' access to financial goods and services.

Specifically, guideline 19 sets out specific actions that should be followed for vulnerable groups who may be unable to provide specific identifications. Traditional forms of identification usually include passports or ID cards. However, credit and financial institutions should identify which alternative independent documentation meets customer due diligence (CDD) obligations and is permitted by national legislation in cases when there are "credible and legitimate reasons to be unable"²⁵ to produce such identification. If allowed by national law, this documentation, including proof of address, may also include expired identity documents and documents provided by an official agency

like social services or a reputable not-for-profit organization that assists this customer on behalf of official agencies. Similar actions may also be taken in the case of those who are refused a residence permit but whose expulsion is prohibited by law or reality.

The recommendations also state explicitly that credit and financial institutions must record any choices made regarding whether to reject a commercial connection or use risk-reduction strategies. "These decisions must be proportionate and aligned with the principle of non-discrimination as enshrined in Article 15 of the PAD and Article 21 of the EU Charter of Fundamental Rights and must be made readily available to competent authorities."²⁶ The final section of the recommendations deals with the complaint procedures that businesses should implement to allow clients to file complaints when they feel they have been treated unfairly.

CONCLUSION

In the context of the digitalization of services and increased cashless transactions, financial inclusion becomes closely connected with social inclusion and has a growing role in the work of reducing the marginalization of individuals who are already in vulnerable situations, such as those experiencing homelessness. Holding a basic bank account can make the difference between being able to pay one's rent or becoming homeless.

As part of their work on financial inclusion, the EU institutions have adopted EU legislation and guidelines which provide with necessary

24 De-risking refers to decisions made by credit and financial institutions to refuse to enter into, or to terminate, business relationships with individual customers or categories of customers associated with higher money laundering and terrorist financing (ML/TF) risk.

25 https://www.eba.europa.eu/sites/default/documents/files/document_library/Publications/Guidelines/2023/1054144/Guidelines%20on%20MLTF%20risk%20management%20and%20access%20to%20financial%20services.pdf

26 https://www.eba.europa.eu/sites/default/documents/files/document_library/Publications/Guidelines/2023/1054144/Guidelines%20on%20MLTF%20risk%20management%20and%20access%20to%20financial%20services.pdf

steps to overcome the exclusion of vulnerable populations at the level of financial institutions. Despite this, as analyzed in this paper, many people facing homelessness, as well as migrants and refugees, continue to be denied their applications for opening basic bank accounts across Europe. Often the reason is because they cannot provide an address or make proof of certain documentation when applying for a basic bank account, therefore they continue to be excluded from such services or their access is fragmented and delayed. The organizations working on the ground underline the crucial lack of knowledge among personnel at the banks regarding the EU directives PAD and AMLD which, combined with existing prejudice and discrimination against migrants and people experiencing homelessness leads to denial of individuals' rights under EU law.

Additionally, in the overlap of the two directives, priority is given to criteria that ensure the AMLD is respected, meaning that the PAD provision on excerpting certain 'vulnerable groups' from providing proof of address and facilitating their access to a basic bank account will be neglected in practice. To tackle this gap in the coordination of the two directives at the implementation level, more training must be ensured to the staff in financial institutions as well as support from the European level. A first step was taken through the recently published Guidelines on policies and controls for the effective management of money laundering and terrorist financing (ML/TF) risks when providing access to financial services under provision number 19 which brings further clarifications to the issue, but we are yet to know how this will translate into practice. To ensure that personnel at the ground level are aware of such guidelines and implement them, further monitoring and evaluation must be realized from the EU level.

Furthermore, in the framework of a wide variation in how financial institutions implement the directives, people who are denied access because they are required documentation they do not dispose of (despite them not needing to prove this) require counselling and accompaniment for accessing entitlements

under the EU law. Support measures should be developed in a more structural and centralized manner, starting with better monitoring of the way that existing policies are implemented. Further, financial institutions need to immediately address issues that are not in compliance with EU legislation, such as fixing the cap some banks have on the number of bank accounts that can be opened per month, as in Spain, or ensuring they provide individuals with a paper notice explaining why they were denied access to a bank account. Additional support and flexibility must be implemented at the bank level when allowed by national law. For example, banks could accept documentation, including proof of address, which may also include expired identity documents and documents provided by an official agency like social services or a reputable not-for-profit organization that assists this customer on behalf of official agencies, as recommended by the EBA 2023 Guidelines.

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