

LAW

No 100/2023

ON

PAYMENT ACCOUNT WITH BASIC FEATURES ¹

In accordance with Articles 78 and 83, paragraph 1, of Constitution, having regard to the proposal from the Council of Ministers,

THE PARLIAMENT

OF THE REPUBLIC OF ALBANIA

DECIDED:

**CHAPTER I
GENERAL PROVISIONS**

Article 1

Object

The object of this law is to define rules and conditions for the opening and using of payment account with basic features for consumers and residents in Republic of Albania, irrespective of their level of income, employment status and credit history within the territory of the Republic of Albania.

Article 2

Scope

¹ This Act transposes into the legal system of the Republic of Albania the Directive 2014/92/EU of the European Parliament and of the Council of 23 July 2014 "On the comparability of the fees related to payment account, payment account switching and access to payment accounts with basic features" CELEX number 32014L0092, Official Journal of European Union, Series L, No. 257, dated. 28. 08. 2014, pages 214–246.

1. The purpose of this law is to guaranty the right of access to payment account with basic features by consumers, as a necessary tool to enable the participation of consumers in the financial market, based on their genuine interest in having such an account, which will allow them to take the benefits that financial market offers.

Article 3

The scope of application

Subjects of this law are banks and branches of foreign banks operating in the Republic of Albania.

Article 4

Exclusions from scope of application

This law does not apply to payment accounts held by any legal entity, including small and micro enterprises and commercial natural persons.

Article 5

Definitions

1. For the purpose of implementing this Law, the terms used have the same meaning as the terms defined under Article 5 of the law no.55/2020, "On payment services".
2. Except as provided in paragraph 1 of this article, for the purposes of implementing this Law, the following terms have this meaning:
 - a. **"Consumer"** has the same meaning as in paragraph 6 of article 3 of the Law no.9902, date 17.4.2008, "On consumer protection", amended;
 - b. **"Payment account with basic features"** is a payment account, which has all the features referred to in article 7 of this law;
 - c. **"Resident"** is individual, albanian citizens or foreigner, with or without citizenship, with temporary or permanent residence in the Republic of Albania, including refugees or refugees and persons with comprehensive protection, who has won the right to asylum in the Republic of Albania;
- ç) The terms "consumer" and "resident" hereinafter will be referred as "consumer".

CHAPTER II

PAYMENT ACCOUNT WITH BASIC FEATURES

Article 6

Procedures for opening payment account with basic features

1. The payment accounts with basic features are offered to consumers in the Republic of Albania by all banks operating in the Republic of Albania, irrespective of their level of income, employment status, credit history of the consumers within the territory of the Republic of Albania.
2. Banks open the payment account with basic features or refuse a consumer's application for opening a payment account with basic features in any case, not later than 15 business days after receiving a complete application.
3. Banks do not open a payment account with basic features where opening such an account would result in an infringement of the provisions of the legislation in force on the prevention of money laundering and terrorism financing and the relevant bylaws. In these cases banks notify the responsible authority for the prevention of money laundering and take appropriate measures in accordance with above-mentioned legislation and bylaws.
4. Banks do not open a payment account with basic features where a consumer already holds a payment account with another bank located in the territory of the Republic of Albania, which allows him to make use of the services listed in paragraph 1 of article 7 of this Law, except for cases where a consumer declares that he has received notice that the payment account in the other bank is closed.
5. By submitting the request for opening a payment account with basic features, the customer declares that he does not have such an account in another bank and gives his consent for the verification of this statement by the bank.
6. Before opening a payment account with basic features, the bank has the right to verify whether the consumer maintains a payment account in another bank.
7. If the bank confirms that the consumer holds a payment account in another bank, consequently, has given a false statement when opening the payment accounts with basic features, the bank does not offer to this consumer the right to open a payment account with basic features for a period of 24 months. This clause should also be provided in the bank's contract with the client in case of opening a payment account with basic features.
8. In the event of refusal referred to in paragraphs 3, 4 and 7 of this article, after taking its decision, the bank immediately informs the consumer of the refusal for opening an account or for closing the account and of the specific reason for this action, in writing, on paper or another durable medium and free of charge, unless such disclosure is contrary to objectives of national security or to the rules governing the process of prevention of money laundering and terrorist financing. In the event of refusal of the request for opening a payment account with basic features or closing the account, the bank advises the consumer for the procedure to submit a complaint against the refusal and of the consumer's right to appeal to the Bank of Albania within 30 days from the date of refusal to open the account.
9. Opening and using a payment account with basic features should not be made conditional on the purchase of additional services/products offered by the bank.

Article 7
Characteristics of a payment account with basic features

1. Payment account with basic features includes the following services:
 - a) services enabling all the operations required for the opening, operating and closing of payment account;
 - b) services enabling funds to be placed in a payment account;
 - c) services enabling cash withdrawals from a payment account within the Republic of Albania at the counter or at automated teller machines (ATM) during or outside the bank's opening hours;
 - ç) execution of the following payment transactions within the territory of the Republic of Albania:
 - i) direct debits;
 - ii) payment transactions through a payment card (excluding payment transactions with credit cards), including online payments;
 - iii) credit transfers, including standing orders, at, where available, terminals and counters and via the online facilities of the bank.
2. The services listed in paragraph 1 of this article shall be offered by banks to the extent that they already offer them to clients holding payment accounts other than a payment account with basic features, unless otherwise provided in this law.
3. A basic account must be denominated only in lek currency.
4. A payment account with basic features shall allow consumers to execute an unlimited number of operations in relation to the services referred to in paragraph 1 of this article.
5. Banks ensure that the consumer is able to manage and initiate payment transactions from the consumer's payment account with basic features in the bank's premises and via online facilities, where available.
6. Payment account with basic features does not have, at any time, a negative balance. Banks are not allowed to provide an agreed overdraft in relation to payment accounts with basic features, nor can in any way allow the usage of the account in excess of the existing balance.
7. Banks do not allow the execution of payment transactions if the payment account with basic features does not have sufficient credit balance to execute a payment transaction and/or fee or commissions application.

Article 8
Associated fees

1. Banks offer the services referred to in paragraph 1, of article 7 of this Law, free of charge or for a reasonable fee.
2. Payment transactions through a payment debit card, referred to in sub-point "ii" of letter "ç" of paragraph 1, of Article 7 of this law, within the territory of the Republic of Albania carried out free of charge or against a reasonable fee, as provided in this article. For payment transactions through a card, executed outside the territory of the Republic of Albania, banks apply fees, which are not higher than those applied by the bank under the internal pricing policy of the bank.
3. For the purposes of paragraph 1 of this article, the methodology for calculation of reasonable fee from banks, is defined by the Bank of Albania by sublegal acts, taking into account at least the national income levels and average fees charged by banks for services provided on payment accounts.
4. The fee referred to in paragraph 3 of this article are charged for the services referred to in letters "a", "b", "c" and "ç", subparagraph "ii" of Article 7 of this law, irrespective of the number of operations executed on the payment account with basic features.
5. Except from the provisions of paragraph 4 of this article, the fee referred to in paragraph 3 of this article, are charged also for services referred to in subparagraph "i" and subparagraph "ii" of letter "ç" of article 7 of this law for a total maximum number of 5 payment transactions in a month for the services defined to in this paragraph. The fees charged for any transaction above the number of 5 transactions in a month for the services defined in this paragraph are never be higher than those charged under the usual pricing policy of the bank.
6. For services of placement of funds into a payment account, withdrawal of fund and execution of payment transactions through a payment account, that are not performed at automated teller machines (ATMs) of the bank itself or via online facilities, the fees charged shall never be higher than those charged under the usual pricing policy of the bank.
7. Banks offer all the services defined in paragraph 1 of article 7, free of charge, irrespective of the number of operations executed on the payment account, for the group of consumers that belong to the vulnerable group that shall be beneficiaries of the rights provided in programs and policies for economic and social assistance schemes, regulated by respective law in the Republic of Albania, as listed below:
 - a) beneficiaries of unemployment benefits according to the law that regulates the promotion of employment in the Republic of Albania;
 - b) families and individuals, who are treated with economic assistance according to the law that regulates social assistance in the Republic of Albania;
 - c) disability payment beneficiaries and their personal assistants according to the law regulating social assistance in the Republic of Albania;
 - ç) individuals who benefit from the status of disability and their personal assistants according to the law that regulates the status of paraplegic and tetraplegic disability in the Republic of Albania;

- d) individuals who benefit from the status of the blind and their personal assistants according to the law that regulates the status of the blind in the Republic of Albania;
- dh) disabled workers according to the law that regulates the status of disabled workers in the Republic of Albania, for the additional payment above the disability pension;
- e) orphans who have obtained the status according to the law regulating the status of orphans in the Republic of Albania;
- ë) beneficiaries of the financing amount for the child placed in a foster family by court decision;
- f) social pension beneficiaries based on the law regulating social insurance in the Republic of Albania, who do not meet the conditions for any type of pension from the mandatory social insurance scheme and have no income or income that benefits from any other source are lower than the income provided by the social pension;
- g) pension beneficiaries according to the provisions of the law regulating social insurance in the Republic of Albania;
- gj) disability beneficiaries as well as permanent disability pension beneficiaries due to accidents at work and occupational diseases, according to the provisions of the law regulating social insurance in the Republic of Albania;
- h) beneficiaries of the family pension according to the definition in the law regulating social insurance in the Republic of Albania;
- i) beneficiaries of higher education financial assistance based on the list of ministry responsible for the education.

Article 9

The contract for opening a payment account with basic features

The payment account with basic features is regulated by framework contract, which is subject to requirements for framework contracts provided in the Law no.55/2020, “On Payment Services”, unless otherwise specified in paragraphs 1 and 2 of article 10 of this law.

Article 10

Termination of the contract

1. Banks unilaterally terminate a contract of payment account with basic features only where at least one of the following conditions is met:
 - a) consumer has used the payment account for illegal purposes;
 - b) there has been no transaction on the payment account for more than 24 consecutive months;
 - c) consumer provided incorrect information in order to obtain the payment account with basic features, contrary to article 6 of this law;

- ç) consumer has no longer the status of resident in the Republic of Albania according to the definition of resident in this law;
- d) consumer has subsequently opened a second payment account in the Republic of Albania, which allows him to make use of the services listed in article 7 of this law.
2. Where a bank terminates the contract for a payment account with basic features on one or more of the grounds mentioned in letters “b”, “ç” and “d” of paragraph 1, of this article, it informs the consumer of the grounds and the justification for the termination at least two months before the termination enters into force, in the form agreed in the contract and free of charge, unless such disclosure would be contrary to objectives of national security or public interest.
 3. Where the bank terminates the contract in accordance with letters “a” or “c” of paragraph 1, of this article, its termination take effect immediately.
 4. The bank advise the consumer through the notification of termination of the contract procedure to submit a complaint against the termination, if any, and of the consumer’s right to appeal to the Bank of Albania and provide the relevant contact details.

Article 11

Obligation to inform consumers about the payment account with basic services

1. Banks should make available to consumers, free of charge, clear and understandable information on the right to access and use the payment account with basic features.
2. Banks should make available to consumers, free of charge, information regarding the specific features of the payment account with basic features and their terms of use, as well as the steps that consumers should take to exercising their right to open a payment account with basic features.
3. The information should make clear that the purchase of additional services is not compulsory in order to access a payment account with basic features.
4. The information provided in paragraphs 1, 2 and 3 of this article should be published by the bank in visible and easily accessible spaces for consumers through brochures in the bank offices, as well as on the official websites of the bank.

Article 12

Consumer complaints

1. When the bank refuse to open a payment account with basic features or the consumers assess that banks have acted contrary to the requirements of this law, they have the right to appeal to the Bank of Albania.
2. The Bank of Albania handle the complaints according to point 1 of this article, within 15 working days from its submission.
3. If the Bank of Albania, after analyzing the consumer's complaint according to the procedure for treating complaints, concludes that the bank has no reasonable grounds for refusing to open a payments account with basic services, it request the bank to open it within 15 working days from the date of the notification of the Bank of Albania's decision.

Article 13

Conversion of payment account into a payment account with basic features

Existing consumers who have accounts other than the payment account with basic features, upon their request have the right to be provided with the basic payment account either by converting an existing account or by opening a new one and closing the exiting one, if they meet the conditions provided in article 6 of this Law.

Article 14

Transparency for fees and commissions connected with payment accounts and payment account switching

The Bank of Albania defines by sublegal acts the requirements on transparency for the fees and commissions related to the payment account with basic features and on switching of payment account with basic features.

CHAPTER III

COMPETENT AUTHORITIES, COOPERATION AND PROFESSIONAL SECRECY

Article 15

Competent authorities and cooperation

1. The Bank of Albania exercise the supervisory function for banks in relation to the implementation of this law and the relevant bylaws issued.

2. The Bank of Albania cooperates with other domestic or foreign authorities for the implementation of the requirements of this law.

Article 16
Professional secrecy

1. The administrators, employees, actual as well as previous agents of the bank, judicial authorities, and the inspectors or other employees of the Bank of Albania or of other respective foreign authorities of banking supervision, are bound by the obligation of professional secrecy for every information obtained in the exercise of their activity in accordance with the requirements of article 91 of the Law no.9662, date 18.12.2006 “On banks in the Republic of Albania”, amended.
2. In the exchange of information, in case of inter-institutional cooperation, professional secrecy shall be strictly applied to ensure the protection of individual and business rights.
3. The Bank of Albania may exchange information with foreign supervisory authorities, foreign central banks and payment institutions, respecting the reciprocity principle, prior approval, data sufficiency, integrity and confidentiality provided that personal data protection is guaranteed according to the law in force.

Article 17
Protection and processing of personal data

The processing of personal data, for the purposes of this law, is carried out in accordance with the legislation in force for the protection of personal data. Entities within the scope of this law access, process and keep personal data necessary for opening and using a payment account with basic features, with the clear consent from the subject.

CHAPTER IV
ADMINISTRATIVE OFFENSES, SANCTIONS AND COMPLAINTS

Article 18
Administrative offenses and sanctions

1. Any infringement to the provisions of this Law shall be considered as administrative offense.
2. The Bank of Albania shall apply a penalty from 50 000 All to 250 000 ALL on banks when after the consumer’s complaint or mainly if committing the following infringements:

- a) bank fails to open the payment account with basic features or fails to refuse the application for its opening within the time limit referred to in paragraph 3 of article 12 of this law;
- b) bank acts contrary to paragraph 8 of article 6, of this law in relation to the notification to the consumer on refusal of a consumer's application for opening a payment account with basic features;
- c) bank in the notification to the consumer on refusal of a consumer's application for opening a payment account with basic features, does not instruct the consumer about his rights to complain, in accordance with paragraph 8 of article 6 of this law;
- ç) bank makes the opening of a basic account conditional on the purchase of additional services contrary to paragraph 9 of article 6 of this law;
- d) bank offers the services on a payment account with basic features in the scope that is narrower than the one it usually offers for a payment account other than a basic account, contrary to paragraph 2 of article 7 of this law;
- dh) bank offers payment account with basic features in a currency other than the lek currency contrary to paragraph 3 of article 7 of this law;
- e) bank fails to allow consumers to execute an unlimited number of payment transactions and other operations in relation to the services referred to in paragraph 1 of article 7 of this law, contrary to paragraph 4 of article 7 of this law;
- ë) bank fails to allow consumers to initiate and manage payment transactions in the payment account with basic features, in the manner referred to in paragraph 5 of article 7 of this law;
- f) bank grants loans in relation to a payment account with basic features contrary to paragraph 6 of article 7 of this law;
- g) bank charges consumers a fee it otherwise would not charge under its usual pricing policy, contrary to paragraph 1 of article 8 of this law;
- gj) bank charges a consumer a fee that exceeds the level of reasonable fee calculated, based on provisions in paragraph 3 of article 8 of this law;
- h) bank charges the consumer, which hold a payment account with basic features, a fee higher than those charged under the usual pricing policy for any transaction above the number of 5 payment transaction in a month, set out in paragraph 5 of article 8 of this law;
- i) bank charges a fee to the group of consumers, contrary to the provisions of paragraph 7 of article 8, of this law;
- j) bank unilaterally terminates a framework contract of a payment account with basic features, on grounds other than those referred to in paragraph 1 of article 10 of this law and contrary to the other conditions of the contract concluded between the parties, which are based on the specific legislation applicable in the Republic of Albania.
- k) bank does not notify the consumer for termination of payment account with basic features, via the way defined in paragraph 2 of article 10 of this law;
- l) bank in a notification referred to in paragraph 2 and 3 of article 10 of this law, fails to instruct the consumer about his rights to complain in accordance with paragraph 4 of article 10 of this law.

- ll) bank does not inform the consumer about the payment account with basic services in accordance with provisions of article 11 of this Law.
3. In determining the amount of the penalty, laid down in paragraph 2 of this article, the Bank of Albania shall consider:
 - a) the circumstances when such infringement took place;
 - b) consequences of the infringement;
 - c) repetition of the infringement;
 - d) importance and duration of the infringement.
4. The right to review the administrative offences, set forth in this law, cannot be exercised when 6 months have passed from the moment of committing the administrative offence.
5. Penalties imposed pursuant to this article are executive titles and shall be cashed for the account of the Bank of Albania.
6. The Bank of Albania determines through the decision of Supervisory Board the relevant authority for issuing administrative acts related to the measures defined in this Law.

Article 19

Disclosure of administrative sanctions

1. The Bank of Albania disclose at the official website the administrative sanctions imposed for infringements of the provisions of this law. The disclosure shall take place upon the bank is informed on that administrative sanction, including information on the type and nature of the infringement.
2. In the case of disclosure of administrative sanctions, which are appealed, the Bank of Albania disclose the information on the status and result of the appeal.
3. The disclosure in compliance with this article shall be available at the official website of the Bank of Albania for a maximum of one year.
4. Bank of Albania shall not disclose the administrative sanctions only if it judges that this disclosure seriously jeopardises the stability of financial markets or causes disproportionate damage to the parties involved.

Article 20

Administrative appeal

1. Every bank, claiming any infringement of its legal rights and interest by administrative acts issued by the Bank of Albania for the implementation of the provisions of this law, has the right to submit an administrative appeal to the Governor of the Bank of Albania within 15 days from the day of getting informed of the act.
2. The realization of the administrative appeal accordingly to this article, is a pre-condition to claim the act at the court.
3. The administrative appeal is submitted at the form and is examined within the limits laid down in the Code of Administrative Procedures.
4. The governor, at the end of the review of the administrative appeal, according to this article, decides:
 - a) leaving the administrative act in force and dismissing the appeal;
 - b) cancellation of the administrative act and acceptance of the appeal;
 - c) amending the administrative act, accepting partially the appeal.

Article 21 **Court appeal**

Each bank is entitled to submit a court appeal against the decision of the Governor of the Bank of Albania, issued according to Article 20 of this Law, based on the legislation that regulates the administrative disputes.

CHAPTER V **FINAL PROVISIONS**

Article 22 **Sublegal Acts**

Bank of Albania is charged for issuing the by-laws for the implementation of Article 8, paragraph 3 and 14 of this law, within 90 days from the entry into force of it.

Article 23 **Entry into force**

This law shall enter into force 3 months after its publication in the Official Journal.

Approved on 14.12.2023