

R E P O R T

on activities of the organizational unit of the Ombudsman for the banking system of Republika Srpska for period from 1 January to 31 December 2019

1. Introduction

The basic tasks of the organizational unit of the Ombudsman for the banking system of Republika Srpska (hereinafter: Ombudsman) are defined by the Law on the Banking Agency of Republika Srpska and the Banking Law of Republika Srpska for the purpose of promoting and protecting the rights and interests of private individuals who are users of financial services.

On-going tasks stipulated by law and other regulation are carried out within the framework of the existing personnel, material and administrative assumptions, and the structure of the organizational unit comprises of two employees, where the number of received complaints decreased slightly.

The work, in one part, referred to issues that have previously caused disputes between users and providers of financial services, while changes in the methods of carrying out transactions, inquiries and requests from users or organizations, greater complexity of contractual relationships and provisions, as well as other circumstances indicate the emergence of new disputed relationships and affect the complexity of procedures upon users' notifications and complaints, especially in matters that are not clear or comprehensive regulated by valid regulations or exceed the scope of authority and capacities of the organizational part.

In the reporting period, a significant number of extraordinary tasks were carried out, especially in terms of the cooperation with other authorities and institutions and international organizations, while in cooperation with other organizational units of the Agency, part of the tasks which represent its powers, were also carried out. From the beginning of the activities of the organizational unit until 31 December 2019, more than 860 user complaints and more than 1,380 inquiries, requests and other submissions were received. Financial service providers are advised of possible improvements to internal rules and procedures, as well as their obligations in complying with regulations on the protection of users of financial services, and in justified cases, recommendations and opinions are given to resolve disputes in an objectively possible, expedient or fair manner.

2. Complaints, inquiries and other requests of financial service users

2.1. Resolution of complaints

In the period from 1 January to 31 December 2019, the organizational unit of Ombudsman received 62 complaints and notifications regarding disputes arising in connection with the conduct of financial organizations or other requests to dispute certain issues in individual relations between users and providers of financial services. In 2019, a decrease in the number of received complaints was recorded, along with the appearance of a certain number of newly created disputed relationships. 11 complaints are being processed in different stages of the procedure.

Out of 72 completed procedures upon users' complaints and notifications, including 23 procedures that were initiated in 2018, in the observed reporting period:

27 founded complaints were positively resolved in favor of the users

6 complaints were unfounded

32 complaints – for which explained answers were given to users, with opinions and instructions regarding the application of valid substantive and procedural regulations and necessary further procedures (6 complaints were forwarded to the Banking Agency of the Federation of BiH for processing).

1 complaint was handed over to another organizational unit of the Agency.

In case of 6 complaints, appropriate information on the subject of the dispute was submitted to other organizational units of the Agency for further action, and regarding the resolution of one complaint and one reasoned answer, information was submitted to the Institution of the Ombudsman for Human Rights of Bosnia and Herzegovina, and in one procedure, information about the established state of affairs was sent to the competent prosecutor's office.

In the reporting period, there were no mediation procedures between users and providers of financial services, since the resolutions in the discussion of disputed relations were reached in the previous procedure of consideration of complaints, and in certain cases also directly between the provider and the user of the service. By changing the bank's earlier decision, one disputed situation from 2018 was also resolved for users.

Number of complaints for acting of financial service providers

Financial service providers	Number of inquiries
Banks	64 (89%)
Microcredit organizations	8 (11%)
Leasing providers	0 (0%)
Saving-credit organization	0 (0%)
Other	0 (0%)
TOTAL	72 (100%)

b) Number of complaints by financial service type

Financial service type	Number of inquiries and percentage
Loans	41 (57%)
Deposit operations	5 (7%)
Payment transactions	14 (20%)
Electronic payment instruments	6 (8%)
Leasing	0 (0%)
Other	6 (8%)
TOTAL	72 (100%)

Inquiries for acting of financial service providers					
	2015	2016	2017	2018	2019
Banks	93	75	102	63	64
MCO	9	4	8	10	8
Leasing providers	1			1	
Saving credit					
Other	2	1			
Total	105	80	110	74	72

Inquiries by financial service type					
	2015	2016	2017	2018	2019
Loans	60	48	52	43	41
Deposit operations	11	7	7	4	5
Payment transactions	4	9	37	15	14
Electronic payment instruments	11	8	8	7	6
Leasing	1			1	
Other	18	8	6	4	6
Total	105	80	110	74	72

Table 1

a) As before, in the observed period, the largest number of user complaints related to **credit operations**.

The subject of complaints was mostly irregularities in the calculations of claims of financial organizations during or after the termination of the contractual relationship (9 considered complaints), and complaints related to the consequences of recording the classification of the user's indebtedness in the Central Credit Register by financial organizations. In the given period, five procedures were completed that related to disputed issues regarding individual clauses on the variability of the nominal interest rate and the performed interest calculations during the contractual relationship. In the procedures conducted regarding other disputed relationships in the group of credit transactions, in this period a certain number of complaints related to the exercise of the right to early repayment of loans, inadequate information of the user or guarantor about the conditions of the legal transaction when concluding or during execution, disputed confiscation of funds on the user's accounts from the point of view of the application of the regulations governing the enforcement procedure, submission of documentation or data on the loan balance and other individual issues. As a rule, financial organizations are given recommendations or opinions for certain actions, and users receive answers or explanations regarding their rights and obligations.

b) **Deposit operations**. In the reporting period, complaints regarding deposit operations related to disputed payments from deposit accounts, payment of insured deposits, fulfillment of the bank's obligation to pay interest on savings deposits, and communication of information about changes in accounts to the heirs of the deceased depositor.

c) **Payment transactions**. In the observed period, complaints were also received in connection with payment operations, with different circumstances of the occurrence of disputed relationships: the largest part of complaints from this group of operations related to disputed circumstances during the execution of payments and payments from accounts, irregularities in the calculation of disputed debts on accounts and changes in the conditions related to the overdraft allowed per account. Other complaints were related to the realization of the inflow and transfer of funds from and abroad, as well as errors and informing users about the implementation of the transfer. One complaint related to the issue of execution of the court decision on enforcement.

d) **Electronic payment instruments (EPI)**. In the relevant period, the complaints related to disputed situations related to the use of electronic payment instruments, namely to disputed unapproved transfers, i.e. transactions due to misuse of the EPI or the information system, the bank's responsibility for the functionality of the ATM and the collection of fees for canceled financial services, and the issuance of the EPI without concluding a usage contract, and the well-founded complaints were positively resolved for the users.

e) Within the group of **other complaints**, the subject of the proceedings were disputed relations in connection with the execution of the court decision on execution and the decision on inheritance, transfers of funds obtained from the sale of securities and non-issuance of documents to the beneficiary from their

own records, i.e. responses, and after consideration, explained answers were given regarding the rights and obligations of users.

In the reporting period, there was a decrease in the number of complaints by persons who personally ensure the fulfillment of obligations, and the complaints were related to the recording of the classification of guarantors' status in the Central Credit Register, which prevents them from borrowing from their own needs, issues of illegality and irregularity of the procedure carried out when approving loans by financial organizations, disputed accounts of claims and submission of documentation related to legal work, and rights in proceedings initiated by financial organizations before the competent court in order to settle their claims. After consideration, the applicants were given reasoned answers regarding their rights and obligations. And in this period, the subject of disputed relations, apart from the administrative area of regulation of the banking sector of Srpska, was also related to the implementation of other material regulations, in which respect there are limited possibilities of the organizational unit for discussing such relations.

2.2. Inquiries and requests of financial service users

Until 31 December 2019, 189 different inquiries or requests for explanations, opinions or instructions regarding the rights and obligations of users or other participants in the legal business and various financial products were received by the Ombudsman, through regular and electronic mail, telephone calls and directly from the parties, and in connection with the application of substantive law norms, as well as 10 inquiries from legal entities and three law offices (on request) - business companies or institutions, and trade union organizations, to which reasoned answers, instructions or opinions were given, including two procedures upon application and request for giving an opinion, which were initiated in 2018.

Number of inquiries for acting of financial service providers

Financial service providers	Number of inquiries and percentage
Banks	125 (66%)
Microcredit organizations	44 (23%)
Leasing providers	0 (0%)
Saving credit organizations	0 (0%)
Other	20 (11%)
TOTAL	189 (100%)

Table 2

As in previous periods, carrying out tasks of informing and giving answers and explanations about the rights and obligations of users and providers of financial services, by telephone and through the direct reception of parties, and by e-mail, with the aim of a more correct and complete understanding of certain institutes, rights and obligations in different legal affairs and situations, as well as the risks of using individual financial services, still represents a significant part of the activities in the work of this organizational part. A significant number of inquiries and requests still refer to the disputed recording of the user's indebtedness in the Central Credit Register, especially due to claims that are of small value in terms of absolute amount, which creates an obstacle for persons in using other services, and notifications were also received that financial institutions or subjects to whom claims have been assigned are trying to take advantage of such a situation, as well as to make changes to the mentioned data without up-to-date information. In a similar volume, inquiries and requests related to disputed accounts of claims of financial organizations (principal debt, default interest and costs) were received. A certain number of questions related to fees and other issues of early repayment of loans, performance of contractual obligations by creditors, questions related to rights from insurance that served as a means of ensuring the fulfillment of the contract, rights and responsibilities

of heirs of deceased users of financial services, rights of users or guarantors and co-debtors in enforcement and litigation proceedings, as well as a number of other issues that arose in factual circumstances, and part of the users' address referred to disputed relations with microcredit organizations or banks that are in bankruptcy proceedings, or disputed relations with the entity to which the claim was transferred.

3. Cooperation activities with other organizations in order to improve the protection framework for financial service users

Preparatory work was carried out in the Ombudsman, and in January the Agency concluded a Cooperation Agreement with the International Finance Corporation (IFC) within the project "Microfinance in Bosnia and Herzegovina", supported by the Embassy of Switzerland in BiH, on the implementation of activities with the aim of promoting and improving the position of users of financial services.

In the implementation of the Cooperation Agreement with the IFC, with the support of this organization, in March in Teslić, the Ombudsman gave a lecture to pensioners at a workshop entitled "Frequent problems of pensioners who use financial products and services", in May at the high school of economics in Bijeljina to students of the final grades and in October, at the youth council of the secondary school center "Petar Kočić" in the city administration of Zvornik, he gave a lecture entitled "My rights as a user of financial products and services", as well as in Sarajevo in November at a round table with advisers from centers in local communities, participated in a discussion entitled "Importance of counseling and financial education from the perspective of ombudsmen and advisers". As part of the same agreement, in September the Ombudsman participated in a working visit to Austria with institutions for supporting over-indebted citizens, creditors in personal bankruptcy proceedings, a bank's department for financial education of citizens, and the Supreme Court of Austria. As part of the implementation of the same agreement, in cooperation with the IFC, informative brochures "How to protect and exercise your rights?" and "Financial products and services - What you need to know?", which are intended for the public, have been prepared and produced, and have been started and partially completed, as well as the work of creating certain parts of the content on the Agency's website related to user questions.

In the implementation of the Decision of the Republika Srpska Government, a part of the Program for Consumer Protection in Republika Srpska for 2019/2020, which refers to the protection of users of financial services, was prepared and submitted to the Ministry of Trade and Tourism of Republika Srpska.

At the request of the secretariat of the International Network of Financial Services Ombudsman Schemes, the requested answers were sent regarding the most significant problems in the protection of users of financial services in Srpska in 2019.

The Ombudsman performed tasks within the analysis of the Analytical Report of the European Commission (EC) in the corresponding part of Chapter 28 and the tasks of the working group, which is attached to the Opinion on the request of BiH for EU membership according to the request of the Ministry of European Integration and International Cooperation of Republika Srpska.

In April, the Ombudsman participated in a seminar-training organized by the Central Bank of Portugal (Lisbon) in cooperation with the National Bank of Bulgaria, within the program "Program for strengthening the Central Bank Capacities in the Western Balkans", which is financed with funds from the EU in the field of rights of users of financial services and financial inclusion (the legal and regulatory framework, strategy and approach to financial literacy, education and inclusion of the population, methods of supervision in a given segment and the impact of digitization of the process on the change in the relationship between users and providers of financial services were presented).

In November, the Ombudsman participated in the work of a panel dedicated to the protection of users of financial services at the conference "Role and importance of microfinancing" organized by the Association of Microcredit Organizations in Bosnia and Herzegovina in Sarajevo, and in December at a round table organized by the Ministry of Finance of Srpska and IFC on the topic "Improving the legal framework of the microcredit sector in BiH".

Working meetings were held with representatives of the IFC, where views were exchanged on the project for education on the topic of financial literacy in accordance with the set plan, a meeting with a

representative of the Ombudsman Institution for Consumer Protection in Bosnia and Herzegovina from Mostar, as well as a meeting with the auditor of the program "Microfinance in Bosnia and Herzegovina". The Ombudsman participated in the thematic RTRS television show on February 11 and 18, as well as on June 11, 2019 in order to provide requested answers to questions in the field of protection of users of financial services.