

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 2020

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 are carried out within the framework of the existing personnel, material and administrative assumptions, and tasks in the Ombudsman are performed by two employees. Since the outbreak of the COVID-19 pandemic, tasks have been carried out under changed conditions, primarily through the partial organization of work from home and the cessation of direct work with clients.

The work, in one part, referred to issues that have previously caused disputes between users and providers of financial services, but the application of temporary measures for banks and MCOs due to the changed economic circumstances of users caused by the deterioration of the health situation, and the increase in the degree of digitization in communication, the execution of transactions and the conclusion of contracts, influenced the emergence of new disputed relationships and the complexity of user complaint procedures, especially in matters that are not or are not comprehensively regulated by current regulations.

In the reporting period, all necessary extraordinary tasks were carried out, by means 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 2020, more than 940 user complaints and more than 1,590 inquiries, requests and other submissions were received, to which explained answers were given.

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

2.1. Resolution of complaints

In the period from 1 January to 31 December 2020, the organizational unit of Ombudsman received 85 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, which is an increase in the number of complaints received compared to the same period of the previous year. 31 complaints are currently being carried out in different stages of the procedure.

Out of 63 completed procedures upon users' complaints and notifications, including 18 procedures that were initiated in 2019, in the observed reporting period:

22 founded complaints were positively resolved in favor of the users

4 complaints were unfounded

29 complaints – for which explained answers were given to users and other entities, with opinions and instructions regarding the application of valid substantive and procedural regulations and necessary further procedures (3 complaints were forwarded to the Banking Agency of the Federation of Bosnia and Herzegovina, the Human Rights Ombudsman Institution of Bosnia and Herzegovina was informed about 1 complaint, and the Ministry of Finance of Republika Srpska was informed about 1 complaint, i.e. the association's initiative).

5 complaints - the applicant's withdrawal from complaints

3 complaints were not accepted due to the irregularity of the submission.

In case of 4 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, information was submitted to the Institution of the Ombudsperson for Children of Republika Srpska, which filed a complaint on behalf of minor children.

Independently or as part of complaint, two initiatives, received by one professional association and one consumer association, were considered in the reporting period. On this occasion, a general recommendation was drawn up and sent to banks and business units of banks based in Federation of BiH operating in Republika Srpska for the implementation of certain measures during the state of emergency, as well as an explained answer.

In the reporting period, there were no mediation procedures between users and providers of financial services, primarily due to the onset of epidemiological situation, as well as due to the effort to, as before, reach solutions in the discussion of disputed relations in the process of consideration of complaints.

Number of complaints for acting of financial service providers

Financial service providers	Number of inquiries
Banks	51 (81%)
Microcredit organizations	11 (17%)
Leasing providers	0 (0%)
Saving-credit organization	0 (0%)
Other	1 (1%)
TOTAL	63 (100%)

b) Number of complaints by financial service type

Financial service type	Number of inquiries and percentage
Loans	30 (48%)
Deposit operations	5 (8%)
Payment transactions	12 (19%)
Electronic payment instruments	5 (8%)
Other	11 (17%)
TOTAL	63 (100%)

Complaints for acting of financial service providers					
	2016	2017	2018	2019	2020
Banks	75	102	63	64	51
MCO	4	8	10	8	11
Leasing providers	1				
Saving credit					
Other	1				1
Total	80	110	74	72	63

a) As before, in the observed period, the largest number of user complaints related to **credit operations**, but their share in the total number of considered complaints decreased compared to 2019.

The subject of complaints was various disputed issues: irregularities in the calculations of claims of financial organizations during or after the termination of the contractual relationship, the submission of documentation or data about the loan to the user or persons who personally ensure the fulfillment of obligations, as well as the validity of contractual clauses on reimbursement of costs for loan processing. In the given period, five procedures related to the application of temporary measures to mitigate the negative consequences caused by the viral disease COVID-19 were completed. In proceedings concerning 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 return to the participants the means of securing fulfillment, inadequate information of the user about the conditions of the financial service and the rights and obligations at the conclusion of the transaction, and the consequences of recording the classification of the user's indebtedness in the Central Credit Register by financial organizations and other individual issues. As a positive trend, it should be noted that there were no complaints related to changes in nominal interest rates and the calculation of interest during the contractual relationship by financial organizations. Recommendations for appropriate actions or opinions were given to financial organizations, and explained answers were given to users regarding their rights and obligations.

b) **Deposit operations.** The subject of the considered complaints was the disputed relationship between the provider of financial services and the heir of the previous user of those services, the submission of data related to the exercise of certain rights based on the old foreign currency savings, improper payments from the depositor's account, the duration of the legal work and the disposal of the balance of minor children without approval of the competent authority of guardianship. One piece of information about the case was submitted to the competent organizational part of the Agency for the purpose of further verification and action.

c) **Payment transactions.** Complaints of users from this group of banking operations were related, first of all, to the incorrect execution of the so-called "credit" transfers according to the user's orders, and then also on disputed situations during transactions on the user's account, on the amount of compensation for realized inflows from abroad, the execution of offsetting of mutual claims, the duration of legal work, with different circumstances of the occurrence of disputed relations, and one complaint referred to the issue of the impossibility of exchanging domestic for foreign currency. Two complaints of companies had as their subject the questionable blocking of their business accounts.

d) **Electronic payment instruments (EPI).** In connection with the use of electronic payment instruments, the complaints mostly related to the question of the bank's responsibility for unauthorized transfers, i.e. transactions executed by EPI misuse, issuing EPI to unauthorized person and the dispute due to re-issuance of EPI.

e) In the observed period, the number of complaints from the group of **other complaints** increased, and the subject of the proceedings were disputed issues regarding the authorized entities for property value assessment in credit legal affairs, set-off of mutual claims with the financial organization, legality of general business conditions, subrogation of the payer in the rights of the previous creditor, the legality of the transfer of personal data, informing and handing over documentation about the legal affairs of the testator to the heir, the amount of commissions for currency conversion and for the execution of the service of sending funds by the "Western Union" service provider, and after consideration, explained answers were given regarding the rights and obligations of the user.

In the reporting period, there is still a decrease in the number of complaints from persons who personally ensure the fulfillment of obligations, and three complaints were received that related to recording classification of indebtedness in the Central Credit Register by financial organizations and submission of the given funds to ensure fulfillment. After consideration, the applicants were given reasoned answers regarding their rights and obligations.

2.2. Inquiries and requests of financial service users

Until 31 December 2020, 158 different inquiries, applications or requests for providing explanations, opinions or instructions were received in the Ombudsman in connection with the rights and obligations of users or other participants in legal affairs and various financial products, and in connection with the application of legal norms, including 11 inquiries by legal entities, BORS of the RS and one expert (on request), to which reasoned answers, recommendations, instructions or opinions were given, including three procedures based on a request or a request for an opinion, which were initiated during 2019. In accordance with the ordered measures for health protection, since the declaration of the state of emergency, the Ombudsman temporarily does not work directly with users, who have switched to using digital channels and regular mail for delivering submissions, as well as calling by phone.

Number of inquiries for acting of financial service providers

Financial service providers	Number of inquiries and percentage
Banks	124 (79%)
Microcredit organizations	29 (18%)
Leasing providers	0 (0%)
Saving credit organizations	0 (0%)
Other	5 (3%)
TOTAL	158 (100%)

As in the previous period, carrying out information and providing answers and explanations, with the aim of a more complete understanding of certain institutes, and the rights and obligations of users and providers of financial services in various legal affairs and situations, as well as the risks of using individual financial services, continues to represent a significant part of the activities in the work of this organizational part. Compared to the same period last year, a slightly smaller number of persons contacted the Ombudsman in order to obtain the necessary answers on various issues.

The largest number of inquiries and requests still relates to the disputed or non-up-to-date recording of the user's indebtedness in the Central Credit Register, especially after the changes in the regulations in that area at the beginning of 2020, which has the effect of hindering and restricting persons from using other services, and attempts to exploit the recorded balances by financial institutions or entities to which claims have been assigned. In accordance with the newly created situation, a significant number of inquiries and requests related to the application of temporary measures for banks and MCOs in order to mitigate the negative consequences caused by the viral disease COVID-19.

A large number of questions related to the rights of users or guarantors and co-debtors (as executors or as payers) in enforcement and litigation proceedings, disputed calculations of claims of financial organizations, rights and responsibilities of heirs of deceased users of financial services, unilateral changes to the conditions of use of financial services, conditions for approval of loans and blocking of the user's account, disputed issues of early repayment of loans and in connection with rights from insurance that served to ensure fulfillment, realization of the right to return funds that served as a means of ensuring fulfillment, as well as a number of other, different issues that arose in factual circumstances. Part of the users' address referred to disputed relations with organizations in bankruptcy proceedings, and disputed relations with the entity to which the claim was transferred.

After the banks' previous statement on the acceptability of the proposed measures, the Ombudsman prepared and issued to banks and business units of banks based in the Federation of BiH operating in Republika Srpska a GENERAL RECOMMENDATION for the implementation of certain measures during the state of emergency related to the use of EPI and financial services through direct (electronic, mobile, digital) channels.

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

At the beginning of the year, the Ombudsman participated in a professional training seminar for the provision of financial counseling and education services for citizens, for advisors of users of financial services from local self-government units participating in the International Finance Corporation (IFC) project.

In the implementation of the Cooperation Agreement with the International Financial Corporation as part of the "Microfinance in Bosnia and Herzegovina" project, which carries out activities with the aim of promoting and improving the position of users of financial services and which is also supported by the Embassy of Switzerland in Bosnia and Herzegovina, informative brochures were prepared and produced - "What should we know before taking a loan? - responsible borrowing", "Most frequently used financial products", "What do you need to know before concluding an insurance contract?" and one brochure dedicated to temporary measures during the pandemic, which are intended for the public and published on the Agency's website. An informative brochure "The most important recommendations for user safety when choosing and using financial services offered online or through mobile banking" was created and prepared for digital publication.

Within the framework of the same agreement, the work of creating parts of the content on the Agency's website, which refers to users of financial services, continued. In this regard, five versions of animated episodes on the most important and most common financial terms and products have been created, and preparations for publishing the animations on the Agency's website are underway. After the outbreak of the pandemic, an animated episode related to the special measures that banks and MCOs can approve for users during the COVID-19 pandemic, as well as new content for publication on the Agency's website in the "Frequently Asked Questions and Answers" section, was produced. In the reporting period, an analysis of the report on debt counseling, financial literacy and microfinance in Germany and Austria, prepared by the International Finance Corporation, was carried out.

According to the request of the Directorate for European Integration, the Ombudsman submitted a response on the relevance of individual EU Directives for Chapter 28, and cooperation with the International Network of Financial Services Ombudsman Schemes, of which the Ombudsman is a member, continued.