

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 2021

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. At the beginning of the year, due to the application of epidemiological measures, the execution of work was organized under changed conditions, and subsequently the organization of work in the Ombudsman was normalized and direct work with interested parties continued, although users shifted to a much greater extent to the use of direct electronic channels for delivering submissions. For the most part, the activities were related to those types of disputes between users and providers of financial services that were also the subject of dispute in the previous period. In addition to these, the continued development of digitization in communication and the provision of financial services, the application of stipulated temporary measures by banks and MCOs due to the changed economic circumstances of users caused by the deterioration of the health situation, and in individual cases also international social movements and trends, influenced the emergence of other types of disputes, as well as the complexity of user complaint procedures, especially in matters that are not or are not comprehensively regulated by valid regulations, which was also the case in the earlier period.

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 2021, more than 1,040 user complaints and 1,730 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 2021, the organizational unit of Ombudsman received 113 complaints regarding occurred 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. 29 complaints are currently being carried out in different stages of the procedure.

Out of 115 completed procedures upon users' complaints and notifications, including 35 procedures that were initiated in 2020, in the observed reporting period:

51 founded complaints were positively resolved in favor of the users

8 complaints were unfounded

39 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 (6 complaints were forwarded to the Banking Agency of the Federation of Bosnia and Herzegovina).

14 complaints - the applicant's withdrawal from complaints

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

In case of 5 complaints, appropriate information on the subject of the dispute was submitted to other organizational units of the Agency for further action.

In the reporting period, there were no mediation procedures between users and providers of financial services, primarily due to the application of epidemiological measures, and constant effort to end the discussion of disputes at an earlier stage, in the process of reviewing complaints.

Number of complaints for acting of financial service providers

Financial service providers	Number of inquiries
Banks	88 (76%)
Microcredit organizations	26 (23%)
Leasing providers	0 (0%)
Saving-credit organization	0 (0%)
Other	1 (1%)
TOTAL	115 (100%)

b) Number of complaints by financial service type

Financial service type	Number of inquiries and percentage
Loans	54 (47%)
Deposit operations	4 (3%)
Payment transactions	35 (30%)
Electronic payment instruments	11 (10%)
Other	11 (10%)
TOTAL	115 (100%)

Complaints for acting of financial service providers					
	2017	2018	2019	2020	2021
Banks	102	63	64	51	88
MCO	8	10	8	11	26
Leasing providers	1				
Saving credit					
Other				1	1
Total	110	74	72	63	115

a) As before, in the observed period, the largest number of user complaints related to **credit operations**. Their share in the total number of considered complaints remained at the level of 2020.

The largest part of complaints from this group refers to the disputed question of the correctness of the classification and recording of the users' debts in the Central Credit Register (hereinafter: CCR) by financial organizations (discussion of this issue constitutes a third of all complaints procedures from the group of credit operations) and disputed amounts of claims of financial organizations due to irregularities in calculations during or after the termination of the contractual relationship, especially due to neglect of legal consequences that occur after the occurrence of certain facts.

In proceedings regarding other disputed relationships in the group of credit operations, a certain number of complaints related to the implementation of temporary measures to mitigate the economic consequences caused by the COVID-19 pandemic, on which five proceedings were concluded this year as well, disputed issues of early repayment of loans, reprogramming or restructuring of the user's existing obligations, failure to act on the user's complaint or inadequate information about the terms of the loan and the rights and obligations of the user, exercising the right of the obligor to hand over or return the means of securing fulfillment, issues of forced collection from transaction accounts contrary to the stipulated restrictions on execution, excessive harassment of the user due to arrears, submission of documentation or credit data to the user, and other individual, specific issues according to the circumstances of the disputed relationship. In contrast to the previous period, there were no complaints regarding the changes in regular interest rates, as well as complaints regarding the (un)foundedness of clauses on reimbursement of loan processing costs, we assume due to the positions taken by the Supreme Court of the RS in that matter. 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.** Even in this reporting period, the smallest share in the total number of considered complaints have complaints related to deposit operations, the subject of which was the disputed calculation of interest during the contractual relationship, irregularities in keeping accounts and entries in the savings book, and the issue of calculating the fee for keeping the depositor's account.

c) **Payment transactions.** In this group of banking operations, a significant increase in the number of complaints discussed was recorded. The largest number of user complaints related to disputed calculations of claims of financial organizations, i.e. debts of users of bank accounts. In these matters, it was established that disputed relationships are largely caused by incorrect information or determination of facts by the departments in banks, especially in direct communication with users. A significant increase in the number of considered complaints was recorded. In the observed period, a greater number of complaints were received and processed compared to 2020 in relation to the amounts of fees for keeping accounts and performing related services or for performing individual services in domestic and international payment transactions.

Other objections were related to incorrect execution or non-execution of payment transactions according to the user's orders, the regularity and consequences of recording the classification of the user's indebtedness in the Central Credit Register, as well as the inability to terminate the contract and close transaction accounts. It is important to note that individual complaints were also processed, which had as their subject matter the issuing of an invalid banknote to the user in the bank, and the impossibility of exchanging foreign effective money according to the decision of the foreign central bank, as well as damaged domestic currency banknotes. Two complaints (one of which was from a company) related to disputed account blocking.

d) **Electronic payment instruments (EPI).** In connection with the use of electronic payment instruments, the complaints related to disputed transactions carried out by misuse of EPI or related data and the question of the bank's responsibility for unauthorized transfers, preventing the use of EPI without notification and explanation provided by the bank, disputed calculations of receivables of financial organizations, and the dispute regarding the irregularities in the operation of the application for electronic banking.

e) In the group of **other complaints**, the most common subject of complaints were disputed issues related to the (non)payment of the insurance sum, which served as a means of ensuring the fulfillment of the contract. Apart from the disputed action of the insuree, the Banks, which also appear as insurance contractors for service users, inadequately fulfill their obligations in that capacity in the part of reporting circumstances that are important for risk assessment. It is important to note that in most of these cases we are talking about insurers that are related companies to the bank that approves the loan. Two pieces of information about the bank's actions in such a case were submitted to the competent organizational part of the Agency for the purpose of further verification and action.

In these procedures, the following issues were considered: informing and handing over documentation to persons that are parties in court proceedings, disposing of funds and handing over documentation to heirs, legal status of parents and children in connection with the use of a bank account, the regularity of the procedure for selling securities through a bank, as well as the issue of illegal withdrawal of funds from the account. It should be noted that in the observed period, only one complaint was received by persons who personally ensure the fulfillment of obligations, in connection with the termination of the contract and the handing over of means of ensuring fulfillment to the paying guarantor, which was resolved positively for the applicant.

2.2. Inquiries and requests of financial service users

Until 31 December 2021, 153 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 one legal entity, for which explained answers, instructions or opinions were provided, and the requested opinions were delivered to other organizational units of the Agency.

Number of inquiries for acting of financial service providers

Financial service providers	Number of inquiries and percentage
Banks	119 (79%)
Microcredit organizations	32 (18%)
Leasing providers	1 (0%)
Saving credit organizations	0 (0%)
Other	1 (3%)
TOTAL	153 (100%)

In accordance with the current practice, the execution of information and providing explanations and answers about the rights and obligations of users and financial service providers, with the aim of a more correct and complete understanding of certain institutes, 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 unit. Compared to the same period last year, the number of persons who referred to the Ombudsman in order to obtain the necessary answers on various issues is approximately at the same level. In this reporting period, too, the largest number of inquiries and requests, with a constant significant increase in the number thereof, relates to disputed recording of the user's indebtedness in the Central Credit Register, with all consequences in the form of interference and restriction of users in the use of other financial services, as well as attempts to exploit the recorded balance by financial institutions or entities to which they assigned their earlier claims.

A large number of inquiries related to: disputed calculations of receivables of financial organizations, the users' rights, their co-debtors or guarantors and other persons (as executors or as payers) in enforcement and litigation proceedings, rights and responsibilities of the heirs of deceased users of financial services, disputed issues of early repayment of loans, executed disputed transactions using EPI, the amount of fees or commissions in payment transactions, seizure by user accounts contrary to the rules of enforcement procedure, rights from insurance that served to ensure fulfillment, making it impossible to dispose of the balance on the account, as well as a number of other, different issues that arose in factual circumstances. Due to the duration of the pandemic, a certain number of requests and inquiries still related to the application of temporary measures for banks and MCOs in order to mitigate the economic consequences caused by such a situation. Part of the user's address referred to disputed relations with organizations in bankruptcy proceedings, and disputed relations with entities to which claims were transferred. Inquiries due to the inability of persons to cash checks whose issuers are from North America are also characteristic of the observed period, given that banks have stopped providing this type of service.

3. Improving regulatory framework

Under the coordination of the Ministry of Finance of Republika Srpska and in cooperation with other organizational parts of the Agency, the Ombudsman participated in the normative preparation of drafts and proposals for amendments to the Law on Internal Payment Transactions in RS.

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

Within the working group for Chapter 28, under the coordination of the Ministry of Health and Social Protection, the Ministry of Trade and Tourism and the Ministry of Finance in the Government of Republika Srpska, the Ombudsman performed the tasks assigned in the phase of priority assessment for the preparation and adoption of regulations for the purpose of harmonization with the regulations of the European Union, in with the aim of creating a suitable EU integration program for BiH.

As part of the Cooperation Agreement with the International Finance Corporation (IFC) and with the support of this organization, as part of the "Microfinance in Bosnia and Herzegovina" project, in the newly created situation, another animated episode was additionally prepared on temporary measures for banks and MCOs in order to mitigate negative economic consequences caused by the COVID-19 pandemic. The work on creating certain parts of the content on the Agency's website, which refers to users of financial services, has been completed, and an agreement has been reached with the Ministry of Trade and Tourism in Republika Srpska regarding the distribution of the informative brochure "The most important recommendations for the safety of users when choosing and using financial services offered online or through mobile banking".

Survey responses were delivered with data related to the Agency, i.e. the Ombudsman, requested by the World Bank for the purpose of assessing the quality of counseling services in the financial education program related to remittances and payments implemented by this organization - "Remittances and Payments Program (RPP)".

In July, the Ombudsman participated in the special general assembly of the International Network of Financial Services Ombudsman Schemes (INFO) in the drafting and adoption of changes to the statutes of this organization, and in an expert discussion on the formation of a complaint management system, as well as on the most important problems and topics in the work of members - national organizational forms for the protection of users of financial services.

In September, the Ombudsman participated in the annual general assembly of INFO, where a new chairman of the organization and new members of the INFO committee were elected, and in an expert discussion on the impact of global phenomena on the way of work and actions of the authority in charge of the protection of users of financial services.

At the request of the INFO secretariat, the requested answers were sent in connection with the most significant problems in the protection of users of financial services in Srpska in 2021.

A working meeting was held with the representatives of one bank in connection with the new regulation of variable elements in the basis for calculating the interest rate in contracts concluded with users, due to the cessation of determination and publication of those elements on the reference markets.

In cooperation with other organizational parts of the Agency, responses to inquiries from the UNCTAD Secretariat were prepared regarding the protection of users of financial services and the topics of financial literacy and education.