

REPORT

on activities of the organizational unit of the Ombudsman for the banking system of Republika Srpska for period from 1 January to 31 December 2022

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 currently performed by the ombudsman and one officer. For the most part, the activities of the Ombudsman 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. Uncertain international economic developments and trends, the continuation of digitalization in the provision of financial services and communication, and certain illegal activities of third parties, have influenced the emergence of other types of disputes and the complexity of acting upon individual complaints, especially in matters that are not or are not comprehensively regulated by applicable regulation, 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 2022, more than 1,150 user complaints and 1,930 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 2022, the Ombudsman received 122 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 a further increase in the number of complaints received compared to the same period of the previous year. 27 complaints are currently being carried out in different stages of the procedure.

Out of 122 completed procedures upon users' complaints and notifications, including 32 procedures that were initiated in 2021, in the observed reporting period:

50 founded complaints were positively resolved in favor of the users

13 complaints were unfounded

40 complaints - explained answers were given to users and legal entities, with instructions regarding the application of valid substantive and procedural regulations and necessary further procedures (5 complaints were forwarded to the Banking Agency of the Federation of Bosnia and Herzegovina).

16 complaints - the applicant's withdrawal from complaints

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

In the reporting period, there were no mediation procedures between users and providers of financial services, primarily due to the constant effort to end the discussion of disputes at an earlier stage, in the process of reviewing complaints, and to avoid the costs of the procedures. Complaints from users from abroad were also resolved positively in two procedures.

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.

Number of complaints for acting of financial service providers

Financial service providers	Number of inquiries
Banks	107 (88%)
Microcredit organizations	11 (9%)
Leasing providers	0 (0%)
Saving-credit organization	0 (0%)
Other	4 (3%)
TOTAL	122 (100%)

b) Number of complaints by financial service types

Financial service types	Number of inquiries and percentage
Loans	55 (45%)
Deposit operations	6 (5%)
Payment transactions	34 (28%)
Electronic payment instruments	13 (11%)
Other	14 (11%)
TOTAL	122 (100%)

Complaints for acting of financial service providers					
	2018	2019	2020	2021	2022
Banks	63	64	51	88	107
MCO	10	8	11	26	11
Leasing providers	1				
Saving credit					
Other			1	1	4
Total	74	72	63	115	122

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 2021.

For a long time now, the largest part of complaints (approximately a quarter) 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. The most important causes of these disputes are the so-called unreasonable application of the regulations governing this area, especially in the part that refers to the creditor's discretionary criteria in monitoring and managing credit risk, and when it comes to the registration of debts that are of small value, as well as partial lack of timeliness in recording data in the CRR. As mentioned earlier, this has the effect of creating disturbances and limiting registered persons in using other services, without an objective reason, as well as attempts to exploit the recorded

balance by financial organizations or entities to whom receivables have been conceded. A significant number of complaints also related to the disputed amounts of receivables of financial organizations due to irregularities in calculations during or after the termination of the contractual relationship, especially due to the neglect of legal consequences that occur after the occurrence of certain facts.

Among other disputes, a certain number of complaints related to failure to act upon the user's complaint or inadequate information about the conditions of the financial service and the rights and obligations of the user, disputed issues of early loan repayment, exercising the right of the person that fulfilled the obligation of returning the collateral (especially when it comes to permits for deletion of pledged rights) and submission of documentation and information about the loan user or interested party. With regard to the policies of central banks, part of the complaints related to changes in regular interest rates, then to the issue of fee costs for loan application processing for both approved and unapproved loans, as well as other specific issues according to the circumstances of the disputes. A smaller number of complaints related to the implementation of temporary measures for financial organizations during the COVID-19 pandemic. Financial organizations were given recommendations for appropriate acting or opinions, and users were given explained answers 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, and the subject was disputed execution of account transactions and disposal of deposits of minor users and persons under guardianship.

c) **Payment transactions.** Also in this period, a significant number of complaints were discussed in this group of banking operations. The largest number of user complaints related to incorrect execution or non-execution of payment transactions according to user orders, especially in international payment transactions, with the calculation of fees for failed transactions, and to the actions of banks in connection with the termination of the contract on account management.

There are still complaints to the increasing amounts of fees related to account management and the execution of individual services in payment transactions. Other complaints were related to the impossibility of disposing of the account balance, disputed accrued receivables of financial organizations based on the allowed account overdraft, disputed execution of transactions on the account and disputed blocking of the account. Disputes still arise to a significant extent due to incorrect information or determination of facts by bank employees who are in direct communication with users. The subject of individual complaints was the incorrect application of the regulations on preventing money laundering, the recording of the user's indebtedness classification in the Central Credit Register, and the impossibility of exchanging domestic currency banknotes.

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, disputed accounts of receivables of financial organizations, classification of debts on this basis in the Central Credit Register and to the dispute regarding the costs of additional verification for the use of EPI.

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 and other rights from the insurance, which served as a means of ensuring the fulfillment of the contract. 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.

This results in the refusal of insurers to pay out the contracted insurance sums, and the banks continue to request for the users to settle the receivables. In these procedures, the following issues were considered: preventing the disposal of funds by the provider of alimention or the user's guardian, unfounded blocking of the account due to the identification of the user, receivables from a person who is not the heir

of the user, disposal of funds and handing over documentation to interested parties, as well as inadequate information of the user about the prize draw.

In the observed period, only two complaints were received from persons who personally ensure the fulfillment of obligations, which related to the invalidity of the guarantee contract and the enforcement classification, which is a continuation of the positive trend when it comes to complaints from these persons.

2.2. Inquiries and requests of financial service users

Until 31 December 2022, 193 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 association, for which explained answers, instructions or opinions were provided, and the requested opinions were delivered to other organizational units of the Agency. After the relaxation of measures for health protection, the Ombudsman regularly conducts in person communication with users, but to a large extent it also makes use of submitting requests and sending inquiries via e-mail and regular mail, as well as via telephone calls.

Number of inquiries for acting of financial service providers

Financial service providers	Number of inquiries and percentage
Banks	137 (71%)
Microcredit organizations	40 (21%)
Leasing providers	0 (0%)
Saving credit organizations	0 (0%)
Other	16 (8%)
TOTAL	193 (100%)

In accordance with the current practice, the execution of information and providing explanations about the rights and obligations of users and financial service providers, with the aim of a more correct and complete understanding of certain norms, 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 increased.

In this section, too, the largest number of inquiries and requests relates to disputed or out-of-date recording of the user's indebtedness in the Central Credit Register. Since the beginning of the year, the number of requests related to the growth of reference rates, i.e. EURIBOR, has increased, which caused an increase in the amount of contracted annuities.

A large number of inquiries related to: disputed calculations of receivables of financial organizations, the users' rights, their co-debtors or guarantors (as executors or as payers) in enforcement and litigation proceedings, the amount of fees or commissions in payment transactions, seizure of user accounts contrary to the rules of enforcement proceedings, the manner and consequences of changing the contract, disputed issues of early loan repayment, rights from insurance that served to ensure fulfillment, preventing the disposal of account funds, the application of temporary measures for banks and MCOs in order to mitigate the economic consequences caused by the pandemic, as well as a number of other, different issues which arose in factual circumstances. Part of the user's requests referred to disputes with organizations in bankruptcy proceedings and disputes with entities to which receivables were transferred

3. Improving regulatory framework

Starting in August 2022, within the cooperation framework with the Ombudsman's office in the Banking Agency of the Federation of BiH, a draft of a joint document was prepared - the Memorandum on the cooperation of the Ombudsman for the banking system of the RS within the Banking Agency of the RS and the Office of the Ombudsman for the banking system in the Banking Agency of the Federation of BiH, which will regulate and cover certain issues that have been mutually agreed upon in the previous work and cooperation between the Memorandum parties.

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

Under the coordination of the Ministry of Trade and Tourism of Republika Srpska, in part of its competence, the Ombudsman participated in the development of the Program for Consumer Protection in Republika Srpska for 2022/2023.

In the reporting period, in cooperation with other organizational units of the Agency, the tasks of drafting and preparing the review for the World Bank "World Bank's Global Financial Inclusion and Consumer Protection Survey" were carried out, preparation of drafts and proposals for amendments to the Law on Payment Transactions, as well as preparation of acts related to specific issues.

The Ombudsman also carried out tasks within the framework of a research project through responses to reviews for the Office of the Malta Financial Services Arbitrator: "Feeding complaint outcomes into policy development: An analysis of consumer redress mechanisms in financial services", which is also a member of the International Network of Financial Services Ombudsman Schemes.

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 assigned tasks in the priority assessment phase for the preparation and adoption of regulations for the purpose of harmonizing them with the regulations of the European Union, with the aim of drafting a suitable EU integration program for BiH.

In September, the Ombudsman participated in the annual general assembly of the International Network of Financial Services Ombudsman Schemes (INFO), where a new chairman of the organization and new members of the INFO committee were elected, and a financial report was adopted, as well as in an expert discussion on the impact of global phenomena on the manner of working and acting of the bodies in charge of the protection of financial service users.

At the request of the INFO secretariat, the requested answers were sent in connection with the most significant problems in the protection of financial service users in Republika Srpska in 2022.

The Ombudsman attended the annual Consultation in the field of civil law, organized by the Association of Judges of the RS, and discussions in the field of civil and commercial law.

In December, the Ombudsman participated (online) in the "Regional workshop on Chapter 28 - Consumer and Health protection", which was conducted by the governmental organization GIZ from Germany.

The Ombudsman participated in the BHT thematic television show "Petrošački smjer", and at the request of various media, answers were provided to questions related to the protection of financial service users.