Centrul de soluționare alternativă a litigiilor în domeniul bancar

Information to consumers approaching ABDRC with applications concerning: de-registration from the Credit Register, assigned claims, loans granted under the "First House" program, and payment of the State premium

10 December 2019, Bucharest. With a view to supporting financial education, we hereby advise consumers of a number of legal provisions in effect of which is a significant reduction of the negotiation possibilities between consumers and banks via ABDRC. When consumers file with ABDRC applications concerning de-registration from the Credit Register, assigned claims, loans granted under the "First House" program, and payment of the State premium, please find below details about the legal grounds under which the traders' negotiation capacity is significantly reduced.

Applications concerning de-registration from the Credit Register

Background: Consumers applying for de-registration from the Credit Register. This type of applications have many justifications, including those laid down under the General Data Protection Regulation (in effect as of 25 May 2018).

Relevant information: The Credit Register (*Romanian: Biroul de Credit*) is a joint-stock company member of the Association of Consumer Credit Information Suppliers (ACCIS). The operation of this Register is regulated under the Decision no. 105/2007 of the National Supervisory Authority for Personal Data Processing.

For a report to the Credit Register to be correct, the overdue amount should be in excess of RON 30 (or the equivalent thereof in foreign currency), and the payment delay should be longer than 30 days. In this case, the creditor (bank) shall submit to the Credit Register information about the overdue amounts, the delay category, the date of the first late payment, and/or information about the opening of the *datio in solutum* proceedings, but only having first given to the consumer a prior notice of at least 15 calendar days.

Should the entry be duly performed, in observance of the conditions above, the debtor remains entered in the Credit Register for 4 years.

Conclusions: ABDRC may be approached with this type of applications, but the banks have accepted to enter negotiations on this issue, or addressed the problem reported by consumers directly **only when there were errors in connection with the entering into the Credit Register.**

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Video on this topic, with a **statement made by Nela Petrișor - ABDRC Conciliator,** in the ABDRC Annual Conference: **https://www.youtube.com/watch?v=u1veMziRf70**

Applications concerning assigned claims

Background: There are instances when the agreements concluded with banking or non-banking institutions were assigned to claim recovery companies (based both in Romania, and abroad), or to banking institutions based outside Romania.

Relevant information: Pursuant to the Government Ordinance no. 38.2015, which regulates the establishment and operation of ABDRC, *"The ADR Centre's mission is to arrange settlement, following ADR procedures, of the disputes between consumers (...) and traders the business of which is regulated, authorized and supervised/monitored by the National Bank of Romania, as well as the branches of traders which pursue businesses in the Romanian territory in the banking field."*

The businesses pursued by both claim recovery companies, as well as the non-Romanian banking institutions are not regulated, authorized or supervised/monitored by the National Bank of Romania.

Conclusions: The referred disputes concerning a claim assignment are subject to a legal restriction laid down precisely under the Government Ordinance no. 38/2015. **The particulars of this type of consumer application may only be adjusted further to a legislative amendment.**

Applications concerning "First House" loans

Background: This type of loan was designed for natural persons meeting the criteria of the "FIRST HOUSE" governmental program.

Relevant information: The applicable legal provisions are found in the Government Emergency Ordinance no. 60/2009 on measures for implementation of the "First House" Program, as well as in the Government Decision no. 717/2009 approving the implementing rules for the "First House" program. This type of loan is guaranteed by the Romanian State under the National Loan Guarantee Fund for Small and Medium-Sized Enterprises (FNGCIMM). The costs, fees, interests and other charges pertaining to this loan are regulated under the special law.

Conclusions: ABDRC can be approached with this kind of applications, but the negotiation margin is virtually zero, **as the Centre may not intervene in a contract/agreement to have the fees or interest charged amended.**

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Applications concerning payment of the State premium

Background: Consumers claims payment of the State premium under agreements concluded with housing banks.

Relevant information: This system was designed as a saving and lending scheme, and was supported by the State with the aim of developing the housing sector. The applicable legal provision is the Government Emergency Ordinance no. 99/2006 on credit institutions and capital adequacy. Further to the audits conducted by the Court of Accounts, payment of the State premiums was suspended. Under the set of measures imposed to the (relevant) credit institutions, payment of the State premium was rendered conditional upon provision of evidence that the amounts concerned would be applied for housing purposes, regardless the saving period.

Conclusions: The banks targeted by the measure adopted by the Court of Accounts found it impossible to grant the State premium any longer because the State stopped transferring the saving premiums after the respective decision of the Court of Accounts. Thus, while such an application can be filed with ABDRC, traders have constantly refused to enter any ADR procedures on this topic because the **decision discontinuing payment of the State premium was not made by banks, but this was a measure imposed by the Court of Accounts, and preserved/validated by courts of law.**

About ABDRC: ABDRC is an institution set up under a European Directive and intermediates, in not more than three months, negotiations between consumers and banks or NBFIs, for agreements in progress. Consumers from any county of the country may file applications to the Alternative Banking Dispute Resolution Centre (ABDRC) via the online application available on the website www.csalb.ro. If the bank accepts to enter the conciliation procedure, a conciliator is appointed. ABDRC works with 21 conciliators, of the best specialists in law, and with additional experience in the financial and banking field. Everything is settled amicably, and the understanding between the parties has the power of court judgment. More information about the work of the Centre is available by phone at 021 9414 (charged a normal rate).