

Rules of ADR Procedure concluded with proposal of a solution for legal entities

approved under the Resolution of 23.01.2020 of the Steering Board


Contents

General provisions.....	2
Conciliation Application.....	3
Preliminary review of the application.....	5
Preliminary casefile.....	5
Declaration of Acceptance, Independence, Impartiality and Availability.....	5
Annex 1.....	5
Decision of admissibility.....	6
Performance of the Procedure.....	6
Effective conciliation procedure.....	6
Conciliation term.....	7
Resolution note.....	7
Resolution.....	8
Report.....	8
Enforceable title.....	9
Closure of the procedure.....	9
Closing provisions.....	10

Provisions of the procedure	Annexes
<p>Legal framework</p> <p>Further to transposition in Romania of the Payment Services Directive/PSD2 under Law no. 209/2019 on the payment services and amending certain items of legislation, and Law no. 210/2019 on the issuing of electronic money, the legal entities that access the categories of services regulated under the two laws may pursue the dispute resolution via ABDRC, and this resolution is subject to the following rules.</p>	
<p>Concepts – definitions</p> <p>Beneficiaries – legal entities – users of payment services and holders of electronic money;</p> <p>Traders – the providers of payment services reference is made to at art. 2 of Law no. 209/2019 and authorized pursuant to Title 1 of the same law, as well as the issuers of electronic money reference is made to at art. 2 of Law 210/2019 and authorized pursuant to Title 2 of the same law.</p> <p>Parties – the beneficiary and the trader.</p>	
<p>General provisions</p> <p>Art. 1</p> <p>(1) The ADR Procedure concluded with proposal of a solution, hereinafter referred to as conciliation procedure, is optional for the parties. The decision to pursue the conciliation procedure is made by the beneficiary, with the agreement of the trader expressed during the attempts to have the case settled directly or afterwards, by the latest before the commencement of the conciliation procedure, pursuant to art. 8 para. (2) below.</p>	

<p>(2) Any of the parties may withdraw from the procedure at any time.</p> <p>(3) Decision of the parties to pursue the conciliation procedure organized and managed by the Alternative Banking Dispute Resolution Centre amounts to their acceptance of these rules.</p> <p>(4) The parties take part in the procedure through a representative, who can be a director, legal advisor, accountant, etc., under a power of attorney/mandate.</p>	
<p>Costs of procedure</p> <p>Art. 2.</p> <p>(1) The fee charged for resolution of the dispute within ABDRC amounts to RON 1,986.</p> <p>(2) The beneficiary participates in the procedure at their own expenses, paying half of the fee, meaning RON 993, but only when the trader accepts the resolution. Payments shall be made within 5 business days starting from the first business day that follows the one when the pro-forma invoice was submitted via email. The tax invoice shall be submitted to ABDRC, after payment of fee by the beneficiary, via email and/or in hardcopy (as registered letter with acknowledgment of receipt).</p> <p>(3) Should the pro-forma invoice not be paid within the aforementioned term, the dispute shall not be resolved within the Alternative Banking Dispute Resolution Centre, and the casefile shall be closed.</p> <p>(4) The trader participates in the procedure at their own expenses, paying, in their turn, the other half of the fee, meaning RON 993.</p>	
<p>Conciliation Application</p> <p>Art. 3</p> <p>The conciliation procedure commences with the conciliation application submitted to the Alternative Banking Dispute Resolution Centre by the</p>	

<p>beneficiary, having enclosed the proof of the attempts previously made to have the dispute settled directly with the respective trader.</p>	
<p>Art. 4</p> <p>The conciliation application includes:</p> <ul style="list-style-type: none"> a) the name of the beneficiary, their identification data, the name the representative and their capacity, the identification data of the trader, as well as the email addresses and phone and fax numbers of the parties. When the beneficiary is based abroad, the application shall also indicate an address in Romania where to be served all the documents, if any; b) presentation of the subject matter of the case; c) subject matter and amount of the claims and, as the case may be, the method employed to have these determined; d) grounds each head of claim relies on, indicating the evidence requested in support thereof, as well as the documents relied on in this respect; e) the signature of their representative. 	
<p>Art. 5</p> <p>Conciliation application shall have enclosed the documents the beneficiary intends to use in support of their case.</p>	
<p>Art. 6</p> <p>When the beneficiary is based abroad, they are required to submit conciliation application, as well as the documents drawn up in the English, together with translations thereof into Romanian.</p>	
<p>Art. 7</p> <ul style="list-style-type: none"> (1) The conciliation application and the documents can be submitted online, via the website https://cereri.csalb.ro/, or via email. (2) The conciliation application on paper may be also submitted to the offices of ABDRC or, as applicable, this can be mailed with acknowledgment of receipt. 	

<p>Art. 8 <i>Preliminary review of the application</i></p> <p>The Procedural Secretariat handles the preliminary screening of the applications received from the beneficiary in order to provide conciliators with the documents required for smooth performance of the conciliation procedure.</p>	
<p>Art. 9</p> <p>(1) The application of the beneficiary, together with the documents submitted in support of the application are served by the Procedural Secretariat to the trader.</p> <p>(2) Within 15 calendar days of receiving of the documents listed at para. (1), the trader shall submit to the Procedural Secretariat of the Alternative Banking Dispute Resolution Centre their agreement to commencement of the conciliation procedure, their opinion on the subject matter of the application, as well as the documents they intend to use to support their point of view/position.</p> <p>(3) Failure of the trader to formally agree to commencement of the arbitration procedure, or their refusal to have the dispute resolved in the Alternative Banking Dispute Resolution Centre shall close the case.</p>	
<p>Art. 10 <i>Preliminary casefile</i></p> <p>The application, together with the documents submitted, the agreement and opinion of the trader, as well as the documents enclosed by the latter form the preliminary casefile. The casefile thus formed is randomly assigned for resolution to a conciliator from the List of Conciliators.</p>	
<p>Art. 11 <i>Declaration of Acceptance, Independence, Impartiality and Availability</i></p> <p>The conciliator has available 3 business days from the date when they were notified by the Procedural Secretariat to appear in the registered office of</p>	<p>Annex 1</p> <p></p> <p>Anexa 1_Declaratie acceptare & indeper</p>

<p>the ABDRC to take a first look at the documents and submit to the casefile their Declaration of Acceptance, Independence, Impartiality and Availability.</p>	
<p>Art. 12 <i>Decision of admissibility</i></p> <p>The conciliator shall resolve on the admissibility of the procedure in the dispute concerned in keeping with the provisions of. 18 para. (3) of the Regulation for Organization of the Alternative Banking Dispute Resolution Centre and Functioning of the Steering Board, within the same 3-business day term set out under art. 10 above.</p>	
<p>Art. 13</p> <p>(1) The randomly designated conciliator can be confirmed or not by the parties.</p> <p>(2) The term for confirmation/refusal is 3 business days of service.</p> <p>(3) Where the parties refuse to confirm the conciliator for good reasons, or the conciliator abstains from resolution of the application for incompatibility reasons, the application is randomly assigned to another conciliator from the same List of Conciliators, in not more than 3 business days.</p>	
<p>Art. 14</p> <p>The conciliator designated pursuant to art. 12 para. 4 shall resume the procedure pursuant to the provisions of art. 10 and 11.</p>	
<p>Performance of the Procedure</p> <p>Art. 15 <i>Effective conciliation procedure</i></p> <p>Confirmation of the conciliator by the parties is the time when the casefile is deemed complete and, furthermore, as of which the effective conciliation procedure commences, in observance of the provisions of art. 11 para. 3 of the Government Decision no. 38/2015.</p>	

<p>Art. 16 Conciliation term</p> <p>(1) The conciliator, subject to consultation of the parties through the fastest means available to them, may set a conciliation term when the parties will be called to appear via electronic means or in writing, by care of the Procedural Secretariat of ABDRC. On this date, the conciliator may ask, if they find appropriate, for additional information and supporting documents, as necessary for the clarification of the case.</p> <p>(2) The conciliation term is set not later than 10 calendar days of the date when the Procedural Secretariat sent the request.</p> <p>(3) Should service of the proceedings not be possible by electronic means, the terms are deferred accordingly with the time needed for service of the proceedings and receiving the replies, by any means which support the proof of service.</p>	
<p>Art. 17 Resolution note</p> <p>(1) Having reviewed the documents and, as the case may be, met the parties, the conciliator proposes, under a resolution note, a solution for the dispute in question, and has this submitted, by care of the Procedural Secretariat of the Alternative Banking Dispute Resolution Centre, to both parties, employing the means agreed upon therewith.</p> <p>(2) The solution rendered by the conciliator shall be substantiated by all the information and documents made available to them by the parties.</p>	
<p>Art. 18</p> <p>(1) The parties may other accept/refuse the solution proposed by the conciliator in the Resolution Note within 15 calendar days of receiving thereof.</p>	

<p>(2) The parties or the conciliator, if applicable, may ask for a meeting to clarify/negotiate the solution proposed under the Resolution Note within 5 calendar days since service thereof.</p> <p>(3) The conciliator sets a term in not more than 10 calendar days of receiving the request of the parties for clarification/debating on the proposed solution and making a decision thereon.</p> <p>(4) The outcome of the clarification/negotiations is documented in a Minutes signed off by the conciliator and the parties, which is an integral part of the Resolution Note.</p>	
<p>Art. 19</p> <p>Resolution</p> <p>(1) On the basis of the express agreement of the parties to the Resolution Note, the conciliator renders, draws up and submits to the Procedural Secretariat, within 15 calendar days, a resolution reasoned under the equity law, in three original counterparts.</p> <p>(2) This resolution is served to the parties as registered letter with acknowledgment of receipt.</p> <p>(3) The resolution is effective as of its service date.</p> <p>(4) The resolution may be appealed against with the court of jurisdiction.</p>	
<p>Art. 20</p> <p>Report</p> <p>(1) If one of the parties disagrees with the proposed solution, the conciliator issues a report. The provisions of art. 18 paras. (1) and (2) apply accordingly as of the date when the refusal of the party is received.</p> <p>(2) If the proposed solution was rejected by the trader, this report shall indicate the judicial redress the consumer may pursue to have the dispute resolved.</p>	

<p>Art. 21</p> <p><i>Enforceable title</i></p> <p>Any decision which is not appealed against within 15 calendar days from the service date becomes enforceable title under art. 13 para. 4 of the Government Ordinance no. 38/2015.</p>	
<p>Closure of the procedure</p> <p>Art. 22</p> <p>The conciliation procedure closes, as the case may be:</p> <ul style="list-style-type: none"> a) with issuance by the conciliator of a reasoned decision documenting acceptance of the proposed solution; b) with issuance by the conciliator of a report documenting rejection of the proposed solution or withdrawal from the procedure, notified by any of the parties. 	
<p>Art. 23</p> <p>Calling of the parties to the conciliation meetings, if applicable, or submission of documents or information to the parties or the requests thereof are handled by the Procedural Secretariat of the Alternative Banking Dispute Resolution Centre, which shall employ the most efficient and swift means therefor, and document completion thereof in the casefile.</p>	
<p>Art. 24</p> <p>The terms which lapse in a non-business day are extended to the next business day.</p>	

<p>Art. 25</p> <p>The conciliator cannot serve an arbitrator, representative or advisor of any of them in any arbitration procedure or court proceedings having the same subject matter as the dispute referred for conciliation.</p>	
<p>Art. 26</p> <p>The confidential nature of the conciliation procedure must be observed by all the persons involved, including the Procedural Secretariat of the Alternative Banking Dispute Resolution Centre, and shall survive closure of the procedure and be irrespective of the outcome thereof.</p>	
<p>Art. 27</p> <p>The parties are under the obligation not rely, in any arbitration procedure or court proceedings, on:</p> <ul style="list-style-type: none"> a) the points of view issued in the conciliation procedure; b) the proposals made by the conciliator, unless accepted; c) the declarations of one of the parties whereby the intention to accept the proposal made by the conciliator is expressed by the respective party. 	
<p>Closing provisions</p> <p>Art. 28</p> <p>(1) The rules of procedures were approved in the meeting of the Steering Board of January 23, 2020 and come into force on January 27, 2020. Annex no. 1 is an integral part of these Rules of Procedure.</p>	