A new paradigm in consumer-bank negotiations: The initiative for an amicable resolution originates with the banks

12 December, Bucharest. This year, the **Alternative Banking Disputes Resolution Centre (ABDRC)** recorded more than 400 cases (an increase of almost 200% compared to 2022) where banks initiated the negotiation process with consumers. Thus, in more than half of all negotiations conducted this year in the ABDRC (730 cases were formed in 2023, the highest annual number since 2016), amicable resolution proceedings were initiated by banks, who invited consumers to conciliation.

This happened after some banks reviewed their customer portfolios, and where they noted late payments, court disputes or other problems they could not resolve directly, they directed their own customers to fill in a request for negotiation on the website www.csalb.ro. The advantage of the banks' initiative to resolve problems with consumers amicably is that it shortens the time it takes for the parties to reach a compromise (in some cases, cases are resolved within a few days) and makes credit institutions much more open to a solution that is favourable to the consumer.

Alexandru Păunescu, representative of the National Bank of Romania in ABDRC: *"In the 8th year of ABDRC's operational activity we are seeing a <next level> in our conciliation work: three banks, one of which having implemented this as a common practice, advise their customers to file for conciliation. Although filing the application to enter into negotiations remains a consumer's vocation, the fact that the credit institution takes the first step and recommends an amicable settlement shows social responsibility and openness towards consumer problems on the part of these credit institutions.*

It is the objective that we have had from the very beginning of the Centre's activity, that banks, on their own initiative, should guide their dissatisfied customers or those who have difficulties in complying with their contracts, towards out-of-court, alternative dispute resolution, in situations where they cannot reach a bilateral settlement.

Since the bank invites the consumer to conciliation, it also shows its willingness to find a favourable solution to the consumer's problem and the negotiation time is greatly reduced. The number of negotiations concluded with reconciliation of the parties stands proof for this. If in 2022 there were 571 cases where banks and consumers reconciled, this year we will reach over 650 cases where negotiations end with a solution proposed by conciliators and accepted by both parties.

We strongly recommend that the rest of the banks also use this method, train their staff in all their workplaces to guide consumers towards an amicable settlement, and make conciliation a rule for credit institutions, not an exception."

Banks, notified if they exceed the deadline for responding to consumer requests

In order to shorten the time taken to deal with requests submitted by consumers to the bank, through the online application that retrieves user requests from the website www.csalb.ro alerts to banks and consumers have been introduced. Thus, if the maximum period of 15 days after the request is sent is exceeded and the bank/NBFI has not replied whether or not to accept the request for negotiation, the IT system automatically sends a message requesting a reply and the consumer is informed of this fact.

www.csalb.ro; 021.9414 (charged a normal rate); secretariat@csalb.ro; Address: Strada Sevastopol nr 24, etaj 2, sector 1, Bucharest.

Where a negotiation file has already been formed (the bank or the NBFI has accepted the request), but 60 days have elapsed since the start of the negotiation, CSALB sends alerts to the conciliators to prioritise those files, even if the legal deadline for settlement is 90 days.

Consumer-bank out-of-court settlements, a priority for magistrates

Last week, at the Ministry of Justice*(photo below*), discussions were held about the identification of measures needed to make alternative dispute resolution the first option for consumers when they have a dispute with a merchant, given the advantages of out-of-court dispute resolution procedures over litigation, with the implicit aim of relieving the courts of some of the 12,000 or so lawsuits between consumers and banks.

Ciprian Tița, Vice-President of the Romanian Magistrates Association, President of the Specialized Court of Argeș: *"The good news is that ABDRC is this year approaching the settlement of 300 cases pending in courts across the country, after settling 67 disputes amicably in 2021 and 145 last year. We see that the number of cases in which banks or judges propose alternative dispute resolution at various stages of the proceedings double year after year. It would be best if this recommendation to negotiate in the ABDRC is made at the first hearing, but the judge is able to put the parties in a position to discuss the amicable settlement of the dispute at any point during the procedure, in this sense also being the provisions of Article 21(2) of the Civil Procedure Code. I noticed that the most effective way is direct communication, in the hearing, to the parties and their lawyers, and postponement of the case to give them time to pursue this alternative. It is also in the judge's interest for the parties to reach an agreement and settle the dispute, but it is also a legal provision, imperative for the judge, to recommend the parties to settle the dispute amicably. The solutions that can be obtained out-of-court may be quite different from those based on a strict interpretation of the law and based on fairness beyond the letter of the contract. Plus, going through the alternative dispute resolution procedure does not close the parties to the possibility of going to court when negotiations fail. It involves virtually no risk for the claimant, who pursues this avenue in an attempt to obtain a win-win solution, at much lower time and financial costs. Not infrequently the courts are assaulted with loads of cases that are not substantiated by a consistent legal analysis or an established court practice, but by myth that somehow spreads diffusely and without proper documentation, that the court is place when certain solutions can be obtained. The awareness that the conciliation procedure can bring can shelter beneficiaries from discovering this by hitting the harsh reality of the costs of a lost lawsuit*."

Photo during the meeting on Friday, December 8, organized by the Ministry of Justice at the initiative of the Romanian Magistrates' Association, through the vice-presidents judges Ciprian Tița and Cezar Filip, with the participation of the initiators, two secretaries of state from the Ministry of Justice, two advisors to the Minister of Justice, the chairman of the Legal Committee of the Romanian Senate, members of the governing bodies of the NBR, ABDRC, BCR, Mediation Council, as well as members of the Bar Association.

About ABDRC: ABDRC is an entity set up under a European Directive, and intermediates, free of charge and in not more than three months, negotiations between consumers and banks or NBFIs, for contracts/agreements in progress. Consumers from any county of the country may file requests with the Alternative Banking Dispute Resolution Centre (ABDRC) filling-in an online form directly on the website www.csalb.ro. Once the bank accepts to enter the conciliation/negotiation procedure, a conciliator is appointed. ABDRC works with 17 conciliators, of the best specialists in law and with relevant experience also 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).