

INDIVIDUAL AND ASSOCIATIVE PROTECTION OF BANKING SERVICES CONSUMER IN THE RELATIONSHIP WITH NATIONAL AND COMUNITARY BANKING INSTITUTIONS

Gheorghe Carmen Adriana

Universitatea Transilvania din Braşov, Facultatea de Drept și Sociologie, Bd. Eroilor nr. 27 Braşov, carmenghe2003@yahoo.com, 0747.223.307

Laura Mureşan

Universitatea Transilvania din Braşov, Facultatea de Drept și Sociologie, Bd. Eroilor nr. 27 Braşov, lauramureshan@yahoo.com, 0722.516.412

Abstract: In Romania, a bank-customer term is punctually (for a brief period) built and not for long term. The customers are looking for the best alternative, especially for a crediting product. The customer-bank relationship should be built in time and, firstly, should depend on the way in which the bank has succeed to be responsible for every client needs – payments, bills, banking transfers, banking deposit, credits, cards etc. In the advanced countries, a customer prefers working with the same bank his entirely life.

Key words: bank, banking law, customer, protection, national institutions, comunitary institutions.

The Banking Services Client- a New Concept of Banking and Business Law

Nowadays we are talking about the client banking services consumer, a new concept, recently introduced in Romania, in the same time with integration into European structures, including the banking one. On the other side, banks' offers are so closed, that the major criterion of decision should be, first of all, the bank-customer terms, rather than the financial genuine product.

The achievement manner of a stable relationship and on equality postures between bank-client/customer it' an objective consistently and very carefully pursued by every bank in the world.

The present research has as purpose the problems approach from customer-bank viewpoint, because, it seems that, in Romania of our days, the bank is situated in a higher position given its client and, therefore, it has been imposing its services, rather than offers. Moreover, it is desirable that a customer/banking services consumer can protect himself in the relationship with banking institution both through a well knowledge of banking field and through associative forms that allow the practising of citizens fundamental rights at another level.

Situation on the National Plane

Romanian client is not very loyal, he does not hesitate to buy from more places, looking for better circumstances – a lower interest for credits, a higher one for deposits, a card with less commissions, for instance. This situation is typical to Romania. In western countries, the clients, physical (private) persons achieve the most of their banking operations with a single bank, and this relationship has a long-term stability. On the other side, in the same time with spread of banking market retail, the number of complaints, because their less quality or not-fair services, is twice more.

According to a test realized for Banks Romania Association (B.R.A.) by a consulting team under the patronage of World bank in 2008, the banks could record 10.000 complaints, from which over 90% are concentrated at the three most important banks in Romania. Most of complaints are related to cards' transactions; swindles, wrong operations not justified shutting of accounts. The object of the third part of complaints consists in credit agreements while the problems with cards transactions at bankomates represent another 8% from the complaints sums.

A major problem between banks and customers is the duration for a complaint solving, which may surpass one year for the third part of complaints, while less than 3% are solved in only a month. Taking account of these results, B.R.A. is going to bring on the Romanian market the institutional pattern of ombudsman, which will support the clients fro free, to solve the various complaints at which the banks cannot properly

answer. The final target: protection of customers' rights, thus all the banks become able to respect the best practices, being forced to obey of the independent arbitrator decisions. The institution would function on the basis of complaints received from the clients, that it would check, after that, depending on situation, to investigate the case, to reach to an intermediation between bank and customer, and to a final solution whether the two involved parts do not reach to a mutual agreement.

The clients have a subordinate position in their relation with the bank, when the financial culture is still low, and the products and services degree is more and more sophisticated. If an arbitrator (mediator) would exist, the public will have more trust in banks and these ones could rectify their miscalculations in a friendly manner which not end with a client lost, but will lead to the relation improvement. This kind of institution has been working in Greece since 1999, when between banks and clients has been settled a negative climate because of bad quality of services and that atmosphere was representing a continuous risk for the entire system reputation. In 2005, from 980 of accepted cases, 83% were been solved in clients' advantage. Last year, the institution received 8000 phone complaints and 5.400 in written.

The objective for us is to introduce (accustom) the Romanian banking market with a new concept in the customer-bank relationship based on partnership idea.

Another aspect of current stage of this problem refers to the fact that many banks clients from Romania suffer because of bad trained employees of certain banks, which give them wrong information. There are many persons in such situation, especially those ones registered into the database of Credit Office, having no information about the existence of any kind of debt. Since it has been efficacious, august 2004, the database of Credit Office contains 3,8 million of registered persons, most of them based on negative information received from the banks. Anyone who has a debt towards to a financial institution bigger than 10 lei and older than 30 days is reported as debtor.

There are sites like the New FinZoom – More closer of the Consumers, preoccupied by the need to inform the citizen about his terms with the bank. A new version brings the Index DAE for the Credits with mortgage which help the consumers to see the market tendencies and to orientate themselves on their choices based on history. The site makes another step towards a direct and practical approach of consumer's education of financial product by (re)launching a new section: Ask the Expert, Add Comments, Advice, Frequent Questions, Financial Dictionary, Search, Your Suggestions, Financial News, Promotion, FinZoom Novelties. More, new search and filtration criteria for financial products have been implemented as a result of observation in due time of the most frequent additional questions in financial consulting activity FinZoom.

This research proposes to encourage the consumers to inform themselves about the whole financial offer available on Romanian market before a decision. Through its activity, the objective of the research team is to build steps towards an evident financial environment and strongly rival, too, that will advantage every time the consumers by competitive products, better conditions and lower costs.

In Romania, a preoccupation for the improvement of bank-customer relationship was tried to be achieved by N.A.C.P. – National Authority for Consumers' Protection, that has proposed to fine the banks that cheat their clients and resort to incorrect commercial usage concerning the interests' granting and their immediate changing. These banks risk fines between 3.000 and 30.000 lei. Thus, there are banks that, for attract clients, offer a lower interest, that increases after two months, in the basis of stipulated riders, on the reason that this increase was established by market evolution. In the same time, the respective bank offers the initial interests to new customers, for attract them. This is a not-fair usage, at which, unfortunately, many banks resort to, because every consumer, not only the early ones, should be influenced by the market increase.

The Legislation Role

The law concerning the fighting against incorrect commercial usage no. 363/2007 is operative starting with this January and it is applicable from the beginning of February. The normative paper, awards to N.A.C.P. the ability to punish the betraying publicity, the aggressive one, the false free offers, the consumers mislead by trap-advertising. The standard document charges both a wrong information and the commercial usages and the betraying and aggressive publicity. The N.A.C.P. inspectors have already requested the agreements patterns from the commercial banks branches (Iași) to verify if there are abusive or indistinct riders. Mostly of the consumers do not understand the contract riders because a typical, sophisticated language is used. The riders must be distinct, to offer every required data. According to the new law, there is no need to

demonstrate the consumer's damage. The physical persons, consumers associations, and the rival economical operators too, may complain against commercial banks. On the other side, it's one of the first normative documents in which it is talking about a behaviour code, defined as the agreement or rules ensemble that is not imposed by legislation or administrative orders and that defines the merchants' behaviour which pledge to respect it concerning one of more commercial usage or to one or more activity domains. The new standard document makes also supplements at Law no. 289/2004 as concerns the judicial system of credits contracts for consumption meant to consumers, physical persons. The law transposes the European provisions contained in Directive no. 87/102/CEE from the 22th of December 1986 to harmonise the legislative and administrative stipulations and the settlement concerning the credit for consumption, subsequently modified.

Another discussed question is the introduction of an optional product, simplified, standardized, such a basic banking account, that may facilitate the access to retail financial services for penniless consumers. This idea came up against obstacles from industry, which sustains that in this way the competition and innovation are impeded. As concerns the consumer's protection and information, to increase his trust, the Commission is searching for ways to protect them and to ensure the financial health of companies that offer retail financial services. The Commission sustains that different rules for consumer's protection of each country member represent a significant obstacle for financial services market, and thus, is sustains the adopting of some harmonised settlement to protect the consumers.

Even this, the consumers groups oppose to these protection rules, sustaining that the local legislative men are the most suitable to solve this problem. The Commission Consultancy has found that the consumer's education and programmes for financial training are ways to educate the consumers and make them more sensitive. The Commission wants that the consumers have a more financial education and to improve the transparency of available information, which may be achieved, by education and school curriculum, for instance. On the other side, the consumers groups warn these objectives achievement by a qualitative protection and informing. The industry warns about a possible informational overcharging of consumers, while the users groups ask high degree information, in a clear and simple language. Another problem related to the relation between services supplier and the consumer was the ascertaining of part which offers retail financial services and of that one who is obliged to inform the consumer; their possible superposition may create an interests conflict. The inspector for Internal Market, Charlie McCreevy, which is responsible of proposition, has declared: We want to create a unique market of retail financial services and to make perceptive improvements for European consumers. The socialist Europarlament (ary) men and speaker for Parliament response at Measures Plan in Financial Services (FSAP), Ieke van den Burg, has mentioned that the Parliament was more sceptical in what is concerning the market opening of retail financial services. She has warned the Commission that they should not neglect the consumer protection tradition through a <universal> approach, sustaining that the trans-frontier access doest not represent a simple purpose. Matthias Bauer from Raiffeisen Capital Management (RCM) and chairman of EFAMA (European Funds Association Management), thinks that for a consumers' better protection, the information should come from superior level and clearly formulated for everyone. The official of consumers' association, Guillaume Prache (FAIDER) has stated that the information must come in the same shape to give the consumers a possibility to compare the offers from the whole Europe. Andrew Smart, chief of financial risks department in Zurich Financial Services and member of ABI (Association of British Insurers), has mentioned that the information excess max constitute an obstacle for financial services consumers, sustaining that less max mean more. The General secretary of European Banking Federation (EBF) Guido Ravoet has declared: We firmly believe that any European policy related to consumer's protection must rely on uniform guiding principles, unlike the current ones, which are opposite to consumers' needs, for going beyond the divergent national settlements. On the plane of jurisprudence, the French Court of Cassation, commercial department, through the decision of the 14th of December 1966, published in *Revue trimestrielle de droit commercial et droit des affaires*, 1966, p. 375, was passing in this respect: *if a client trusts to the bank shares in order to manage (administrate) them, the bank must inform him about the events that may influence the course of these shares in order to this one can decide if keeps or sell them.*

Conclusions

This paper is a part of an extend research has purpose to information gathering about bank-customer/consumer terms in specialized literature, articles, mass-media, to make the informative materials made at clients service, agreements models, European Community sites (banks from countries with

tradition in banking services, para-banking institutions), because 2007, the Romanian citizen may be informed also in other manners, borrowed from European institutions. The economical analysis will be focused on a research as concerns the number of clients from European Union countries, of those which appeal to one or more banks, of requested services category, of discontented customers, of those ones who go to law with banks etc.

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