



EMF >

OUT-OF-COURT SETTLEMENTS IN THE EU

HELPING MORTGAGE BORROWERS RESOLVE
CROSS-BORDER DISPUTES



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¹ Last updated in 2001

² Last updated in 2001

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Executive Summary

▪ Background

The subject of improved access to justice through extra-judicial authorities that operate according to simplified, faster and less costly procedures is currently under discussion at European level in the context of the Commission's assessment of the integration of European mortgage markets. The inadequacy of traditional legal systems to resolve "petty" disputes, cross-border disputes or disputes concerning on-line contracts is being increasingly acknowledged, especially with regard to consumer confidence in a cross-border context.

However, at European level, and specifically in the Commission's Green Paper on Mortgage Credit, the credibility of existing alternative redress systems is being questioned, especially in the field of mortgage credit, and the question of whether legislation is required in this area to ensure the existence of alternative means of redress is under discussion.

With these considerations in mind, the purpose of the present survey was to assess the adequacy of competent schemes, which exist in the EU Member States to ensure consumers an easy and fast access to redress. The results of the Federation's survey not only demonstrate the existence of sufficient schemes, but also the fact that they are consistent, which implies that the basic principles are common to most systems, and highly developed. The Federation's survey also shows that the out-of-court authorities in those Member States included in the Survey are all competent to hear complaints based on the Code. Against this background, any problems would appear to relate to a lack of knowledge amongst the public of alternative redress systems, rather than a lack of credibility. In this respect, it seems that this is a matter for encouragement rather than legislation.

Whilst the current schemes at national level are already sufficient, the extension of the Commission's FIN-NET initiative could nonetheless be useful for cross-border mortgage credits with a view to increasing transparency and ease of access to redress at European level. The FIN-NET initiative groups together existing extra-judicial authorities from all Member States. This network is intended to give consumers who have concluded a cross-border transaction the possibility to bring their case before national bodies. Indeed the network is organised under a chart establishing rules of co-operation between the participating extra-judicial authorities with a view to the out-of-court settlement of cross-border disputes.

The survey presents a list of the various systems in force in the Member States and Norway as well as a precise description based on a detailed questionnaire. It supplies practical information such as the addresses and full details of the schemes, including the references of persons in charge of the procedures.

▪ **Results of the Survey**

➤ ***Concerning the competence of the schemes:***

The out-of court bodies are competent to treat complaints relating to cross-border operations in all Member States with the exception of NL and UK.

➤ ***Concerning the coverage of the schemes: the general rule is a wide coverage***

There is no uniformity as to the structure of the schemes. Depending on the country they are either public (ES; IRL; LU; PT; SE) or private (other Member States and N), with the addition of schemes which are internal to the credit institution (BE; FR; AT). In HU, both public and private schemes exist. Countries having internal schemes, in which coverage is limited to one institution, also have private sectoral schemes (BE; FR; AT).

Public and private schemes are always sectoral insofar as their competence is limited to the financial services area with the exception of SE where the National Board for Consumers' Complaints has overall competence. Private schemes are set and managed by the sector. Depending on the countries, there is one general scheme for financial services or several specialised schemes coexisting (schemes covering mortgage credit, commercial banks, insurance companies, etc.). As a consequence the field of activity of these schemes is determined by their membership, i.e. they are competent for consumers' complaints which concern member credit institutions.

In 9 Member States (DK; GR; ES; IRL; NL; PT; SE; UK; N) the schemes cover 100% of the mortgage loans market and the percentage is over 95% in B as far as the sectoral schemes are concerned. It is 15% in FR, 5% in POL and unknown in DE; IT; HU; AT.

➤ ***Concerning the cost of the procedure: as a general rule it is free of charge***

It is free in all Member states with the following exceptions:

- DK where it is charged to the consumer at 100 DKK but is reimbursed if the case is upheld;
- HU where the costs of the conciliation body will be charged to the unsuccessful party; the parties bear the costs of the mediator equally;
- NL where it is charged to the consumer at an average rate of €35;
- POL where it is charged to the consumer at €12.5 or €5 in those cases where the value of the subject of the litigation does not exceed €12.5; it is reimbursed by the bank if the consumer wins;
- UK where it is charged to the lender.

➤ ***Concerning the nature of the decision: as a general rule it is never binding on the consumer***

In general, the decision taken by the out-of-court body is not binding either on the consumer or on the credit institution (BE; DK; GR; ES; LUX; HU; AT; PT, SE, N). This means that the two parties have

the possibility to bring the case to the Courts if they are not satisfied with the decision. However, it appears from the survey that, in practice, the credit institutions tend to comply with the decision due to its moral authority.

In IRL, IT and POL the decision is binding on the credit institution but not on the consumer. This is also the case in DE where the decision is binding on the credit institution for amounts which do not exceed €5.000. It seems that an expected new regulation in the UK will implement the same principle.

In NL however, the decision is binding on both parties.

➤ ***Concerning the possible existence of limits to the scheme's competence: as a general rule there are no ceilings***

Three countries only have ceilings limiting the consumers' access to their schemes: IRL, where the limit is €250.000 (in fact, it is very high and no claim is expected to exceed this figure), IT, where it is €50,000 (€10,000 for operations carried out before 31 December 2005) and POL, where it is €2,000. The low ceilings in IT and POL could be a problem for access of mortgage borrowers to the scheme.

➤ ***Concerning the time taken for handling complaints: in a majority of countries and schemes it varies from 1 to 10 weeks***

1 to 10 weeks is clearly a very good result (BE; DE; GR; FR; HU; NL; POL; PT; N). However, other Member States also manage a very good timing with an average time necessary of approximately 3 to 4 months and a maximum of 6 months in two of them.

I. BELGIUM

A. MEDIATION SERVICE BANKS - CREDIT - INVESTMENTS

1. Name of the existing out-of-court authority/ies/system(s):

“Service Médiation Banques – Crédit – Placements”/“Bemiddelingsdienst Banken - Krediet – Beleggingen” (Mediation Service Banks - Credit – Investments)

2. Address and full references:

Mr Jacques ZEEGERS
Ombudsman
Square de Meeûs 35 / Bte 6
1000 Bruxelles
Tél.: +32 (02) 545.77.70
Fax: +32 (02) 545.77.79
E-mail: ombudsman@ombfin.be
Website: www.ombfin.be

3. Competence

3.1 Level: Sectoral system.

3.2 Institutions / types of institutions / financial products covered by the out-of-court authority/ies: Members of the Belgian Bankers' and Stock Broking Firms' Association, of the Professional Union for Credit, of the Belgian Association of Asset Managers and of the Belgian Association of Stock Exchange Members.

3.3 Financial intermediaries: Covered.

4. Type of out-of-court authority/ies

4.1 Private or public out-of-court scheme: Private.

4.2 Out-of-court scheme managed by: A Surveillance Board composed of representatives of public authorities, consumer and financial sector representatives ensure the correct functioning of the system.

4.3 Out-of-court scheme financed by: jointly by the financial sector and the public authorities.

5. Beneficiaries: All customers of banks and savings banks, stock broking firms, asset managers, investment advisers and credit companies.

6. Cost for the consumer: This service is free of charge.

7. Brief description of the procedure(s) to be followed by the complainant:

⇒Specify possible time limits for bringing the complaint to the scheme.

⇒Specify whether the decision is binding on the credit institution, on the consumer, on both parties.

The complainant must first of all approach the relevant department of the financial institution in question. If he/she does not obtain satisfaction through this means, he/she must put his complaint in writing and inform the mediation service

The decision ("advice") is binding neither on the credit institution, nor on the consumer.

8. Is there a ceiling on the amount for which the out-of-court authority has competence and which could pose a problem as regards mortgage loans? No.

9. Average time taken for a complaint to be handled: An in-depth examination of the issue requires time. The exact time taken to handle the complaint can vary from a few days to a few months, depending on the complexity of the problem.

10. Does this system also cover complaints relating to cross-border operations? Yes.

11. Does the out-of-court authority/ies have the competence to:

11.1. Hear complaints based on the European Code of Conduct on Home Loans? Yes.

11.2 Oblige a member establishment to apply the Code? No. The Ombudsman cannot impose penalties. However, barring a few highly exceptional cases, the Ombudsman's opinion has always been followed. This is due to the extent of his moral authority.

12. If the out-of-court authority/ies in your country is/are not competent, are the judicial courts competent? Both the Ombudsman and the courts are competent. As the Ombudsman has an advisory function the complainant still has a right of recourse to the ordinary courts.

13. In view of your system, what percentage of mortgage loans will fall within the jurisdiction of the out-of-court authority? Considering the scope of competence of the Ombudsman, the scheme covers more than 90% of mortgage loans granted in Belgium.

14. Does / do the out-of-court authority/ies publish an annual report on their activities? If yes, is the annual report available on the website of the out-of-court authority? Yes, to both

questions: Annual reports in French and Dutch, as well as publication every half year of the Ombudsman's opinions.

B. INSURANCE OMBUDSMAN

1. Name of the existing out-of-court authority/ies/system(s):

“L’Ombudsman des Assurances”/De Ombudsman van de Verzekeringen” (Insurance Ombudsman)

2. Address and full references:

Madame J. VAN ELDEREN
Ombudsman
Square de Meeûs 35
1000 Bruxelles
Tel.: +32 (02) 547.58.71
Fax: +32 (02) 547.59.75
E-mail: info@ombudsman.as
Website: www.ombudsman.as

3. Competence

3.1 Level: Sectoral system.

3.2 Institutions / types of institutions / financial products covered by the out-of-court authority/ies:
The Ombudsman deals with formal complaints made against insurance companies and the database Datassur. All products offered by insurance companies are covered including the loans they grant and which go with insurance products.

3.3 Financial intermediaries: Covered. The Ombudsman can help consumers in the event of a dispute concerning intermediary insurance services.

4. Type of out-of-court authority/ies

4.1 Private or public out-of-court scheme: Private.

4.2 Out-of-court scheme managed by: a.s.b.l. Ombudsman (Moniteur belge dd 17 Oct. 2006).

4.3 Out-of-court scheme financed by: The insurance companies.

5. Beneficiaries: Private persons and intermediaries on behalf of their clients.

6. Cost for the consumer: This service is free of charge.

7. Brief description of the procedure(s) to be followed by the complainant:

⇒Specify possible time limits for bringing the complaint to the scheme.

⇒Specify whether the decision is binding on the credit institution, on the consumer, on both parties.

The dispute must relate to an existing contract. The complainant does not have to write to the insurance company beforehand. The Ombudsman procedure must be in writing, a simple letter is sufficient. The Ombudsman has only advisory competence; his decision is neither binding for the consumer nor for the insurance company.

8. Is there a ceiling on the amount for which the out-of-court authority has competence and which could pose a problem as regards mortgage loans? There is no limit for the amount of disputes.

9. Average time taken for a complaint to be handled: Approximately one month.

10. Does this system also cover complaints relating to cross-border operations? Yes, provided the insurance company is established in Belgium.

11. Do the out-of-court authority/ies have the competence to:

11.1. Hear complaints based on the European Code of Conduct on Home Loans? Yes.

11.2 Oblige a member establishment to apply the Code? The Ombudsman's decisions do not bind the parties. The Ombudsman cannot impose his sanction. However with the exception of a few very exceptional cases, the Ombudsman's decisions have always been followed, due to the importance of his moral authority.

12. If the out-of-court authority/ies in your country is/are not competent, are the judicial courts competent? Both the Ombudsman and the courts are competent. As the Ombudsman has the authority to express an opinion, the complainant keeps the right to pursue the complaint in court.

13. In view of your system, what percentage of mortgage loans will fall within the jurisdiction of the out-of-court authority? Considering the scope of the competence of the Ombudsman, the scheme covers approximately 5% of mortgage loans granted in Belgium.

14. Does / do the out-of-court authority/ies publish an annual report on their activities? If yes, is the annual report available on the website of the out-of-court authority?

Yes, to both questions: an annual report in French and Dutch is published.

C. BANKING, FINANCE AND INSURANCE COMMISSION (CBFA)

1. Name of the existing out-of-court authority/ies / system(s):

“Commission Bancaire, Financiere et des Assurances”/“Commissie voor het Bank-, Finance-, en Assurantiewezen” (Banking, Finance and Insurance Commission)

2. Address and full references:

CBFA

Rue du Congrès 12-14

1000 Bruxelles

Tel.: +32 (02) 220.52.11

Fax: +32 (02) 220.52.75

E-mail: cob@cbfa.be

Website: <http://www.cbfa.be>

Until 1st January 2004, the activity of supervising mortgage lending institutions was carried out by the Insurance Supervisory Office (OCA). Since this date, the Banking, Finance and Insurance Commission (CBFA), created as a result of the merger of the Insurance Supervisory Office (OCA) with the Banking and Finance Commission (CBF), has been the single supervisory authority for the Belgian financial sector.

3. Competence

3.1 Level: National and sectoral (companies granting mortgage credit to consumers – see point 3.2)

3.2 Institutions / types of institutions / financial products covered by the out-of-court authority/ies:

- Type of institution: mortgage companies registered with the CBFA.
- Financial products:
 - Mortgage credits which come under the Belgian law of 1992 ‘relating to the mortgage credit’ (hereinafter ‘the law’), i.e. mortgage credits to finance the acquisition or the conservation of real property rights, granted to natural persons acting principally outside their commercial, business or craft work and who at the time the contract is signed have their usual residence in Belgium. This means: 1) credits guaranteed by a mortgage or a privilege on a property or by pledging a debt guaranteed in the same way; 2) claims resulting from the substitution of one or more third parties in the rights of a creditor privileged on a property; 3) credits stipulating the right to demand a mortgage guarantee, even if this right is stipulated in a separate deed; 4) credits on guarantee when a mortgage guarantee is granted in favour of the bail or the guarantor.
 - Mortgage loans covered by royal decree no 225 of 1936 ‘governing mortgage loans and organising the supervision of mortgage lending companies’.

3.3 Financial intermediaries: Covered.

Extent: mortgage credit intermediaries are not supervised by the CBFA except for some articles concerning publicity and certain obligations in the matter. Article 42 of the law however allows the King opportunity to regulate the obligations of mortgage brokers and financial intermediaries. There is a possibility that in the near future, the King may exercise this power.

4. Type of out-of-court authority/ies

4.1 Private or public out-of-court scheme: Public.

4.2 Out-of-court scheme managed by: CBFA

4.3 Out-of-court scheme financed by: the mortgage lenders pay for the control expenses exercised by the CBFA according to the provisions of the law.

5. Beneficiaries: All clients – borrowers of mortgage companies registered at the CBFA.

6. Cost for the consumer: This service is free of charge.

7. Brief description of the procedure(s) to be followed by the complainant:

⇒Specify possible time limits for bringing the complaint to the scheme.

⇒Specify whether the decision is binding on the credit institution, on the consumer, on both parties.

The complainant (the borrower) does not need to contact the mortgage company in the first instance. As regards the time, there is no particular rule but in order for a complaint to be accepted, it must be made within the time allowed by civil law. The procedure before the CBFA is written, an ordinary letter is sufficient. The CBFA is authorised to investigate mortgage companies. It can ask for penal sanctions to be applied in accordance with Chapter I of the law. In addition, the CBFA may, in the event of serious breach of the provisions of the law strike out the registration. As regards the borrower, the decisions of the CBFA are not compulsory. He can, in fact always contact the Courts and Tribunals if he thinks justice has not been done.

8. Is there a ceiling on the amount for which the out-of-court authority has competence and which could pose a problem as regards mortgage loans? No.

9. Average time taken for a complaint to be handled: The average length is approximately 6 weeks. It depends on the complexity of the problem raised by the complaint (need for additional information, investigations on site, etc.).

10. Does this system also cover complaints relating to cross-border operations? Yes, if this is a registered company the CBFA must follow the procedure laid down by article 43bis, section 3, of the law.

11. Do out-of-court authority/ies have the competence to:

11.1. Hear complaints based on the European Code of Conduct on Home Loans? No.

11.2 Oblige a member establishment to apply the Code? No.

12. If the out-of-court authority/ies in your country is/are not competent, are the judicial courts competent? See general law (articles 1135 and 1160 Civil Code).

13. In view of your system, what percentage of mortgage loans will fall within the jurisdiction of the out-of-court authority? CBFA covers all the mortgage credits which are covered by Belgian legislation relating to mortgage credits (see above).

14. Does / do the out-of-court authority/ies publish an annual report on their activities? If yes, is the annual report available on the website of the out-of-court authority?

Yes, to both questions: an annual report in French and Dutch is published.

II. DENMARK

1. Name of the existing out-of-court authority/ies / system(s):

“Realkreditankenævnet” (The Danish Mortgage Credit Complaint Board)

2. Address and full references:

REALKREDITANKENÆVNET

Zieglers Gård

Nybrogade 12, Parterre

DK – 1203 COPENHAGEN K

Tel.: +45 33 12 82 00

Fax: +45 33 12 36 01

e-mail: ran@ran.dk

website: www.ran.dk

3. Competence

3.1 Level: Sectoral system.

3.2 Institutions / types of institutions / financial products covered by the out-of-court authority/ies: The Danish mortgage credit institutions and their foreign branches, and Danish branches of foreign mortgage credit institutions if the dispute is to be considered under Danish law.

3.3 Financial intermediaries: Not covered.

4. Type of out-of-court authority/ies

4.1 Private or public out-of-court scheme: Private.

4.2 The out of court scheme is the Realkreditankenævnet. This is independently managed. The secretariat is separate and independent of the Realkreditråd, and as such also of the mortgage credit institutions. The Realkreditankenævnet is chaired by a Supreme Court Justice, and the members of the appeal board are appointed by the mortgage banks and the Danish Consumer Organisation by each a half.

4.3 Out-of-court scheme financed by: The Danish mortgage credit institutions.

5. Beneficiaries: All Consumers.

6. Cost for the consumer: This service is subject to a fee. The fee is DKK 100. The fee is refunded if the complaint is fully or partly upheld and if the complaint is taken back by the complainant.

7. Brief description of the procedure(s) to be followed by the complainant:

- ⇒ Specify possible time limits for bringing the complaint to the scheme: there is no exact time limit in general.
- ⇒ Specify whether the decision is binding on the credit institution, on the consumer, on both parties:

Realkreditankenævnet has issued special guidelines on the procedure to be followed by the complainant. The guidelines explain the procedure from the time when the complaint is received until the matter ends.

According to the guidelines, the complaint must be filed in writing using a special form. The form requests the following information:

- Name, address and telephone number of the complainant;
- Address and title number of the real property in question;
- The name of the mortgage bank concerned;
- A short description of the content of the complaint (the process and possible enclosures);
- Signature and date.

If the matter ends with a decision against the complainant, Realkreditankenævnet delivers written guidelines as to legal proceedings in the courts. These guidelines also contain information on how to apply for free legal aid.

8. Is there a ceiling on the amount for which the out-of-court authority has competence and which could pose a problem as regards mortgage loans? There is no such ceiling regarding the competence of the Danish Mortgage Credit Complaint Board.

9. Average time taken for a complaint to be handled: The total time for handling a complaint is 3-4 months on average.

10. Does this system also cover complaints relating to cross-border operations?

The system covers complaints concerning:

- Danish branches of foreign mortgage banks;
- Foreign branches of Danish mortgage banks;
- Cross-border operations by Danish mortgage banks.

It does not cover cross-border operations in Denmark by foreign mortgage banks.

11. Do the out-of-court authority/ies have the competence to:

11.1. Hear complaints based on the European Code of Conduct on Home Loans?

Yes, Realkreditankenævnet (the Danish mortgage Credit Complaint Board) would be competent to hear complaints based on a Code of Conduct adopted voluntarily by the mortgage lenders, provided that the guidelines/bylaws of the Complaint Board are extended in order to grant the Complaint Board competence to hear complaints based on The European Code of Conduct.

11.2 Oblige a member establishment to apply the Code? No, the Danish Mortgage Credit Complaint Board has no such authorisation. The Association of Danish Mortgage Banks does in such cases have the option to either exclude or refuse to grant membership to members or institutions, if they do not want to apply to the Code. Regarding the situation when a member fails to follow the Code, the sanctioning of non-compliance by a member can be formally transferred to the Association of Danish Mortgage Banks through an extension of the statutes of the Complaint Board, and thus carried out by means of the statutes of the Association.

12. If the out-of-court authority/ies in your country is/are not competent, are the judicial courts be competent? Provided the by-laws are amended, the Danish Mortgage Credit Complaint Board is competent to handle complaints based on the Code of Conduct and exclusively so if the dispute solely concerns a malpractice. In the latter case the courts will not be competent as it is not considered a legal dispute. If a consumer chooses to instigate (or continue) proceedings before the courts in a legal dispute, the Code of Conduct will only constitute a contribution in the interpretation of Danish legislation.

13. In view of your system, what percentage of mortgage loans will fall within the jurisdiction of the out-of-court authority? All mortgage loans granted to consumers fall within the jurisdiction of the Danish Mortgage Credit Complaint Board. This means that there is 100% coverage in this area.

14. Does / do the out-of-court authority/ies publish an annual report on their activities? If yes, is the annual report available on the website of the out-of-court authority? Yes, in Danish.

III. GERMANY

1. Name of the existing out-of-court authority/ies / system(s):

- a) Ombudsmannverfahren - "Schlichtungsverfahren zur Beilegung von Meinungsverschiedenheiten zwischen Banken und Kunden im deutschen Bankgewerbe" (Private banking Ombudsman)
- b) Ombudsmannverfahren - „Schlichtungsverfahren zur außergerichtlichen Streitbeilegung von rechtlichen Meinungsverschiedenheiten zwischen privaten Bausparkassen und ihren Kunden" (Bauspar Ombudsman)
- b) Ombudsmannverfahren – „Der Ombudsman für Streitigkeiten zwischen Kunde und Bank" (Ombudsman der genossenschaftlichen Bankvereinigung)
- c) Ombudsmannverfahren – „Verfahren für die Schlichtung von Kundenbeschwerden im Bereich der öffentlichen Banken" (Ombudsman der öffentlichen Banken)
- d) Ombudsmannverfahren der Regionalverbände der Sparkassen

2. Address and full references:

▪ **BUNDESVERBAND DEUTSCHER BANKEN e. V.**

Kundenbeschwerdestelle
Burgstr. 28
D – 10178 BERLIN
Tel.: +49 30 16 630
Fax: +49 30 16 63 1399
e-mail: bankenverband@bdb.de
website: www.bdb.de

▪ **OMBUDSFRAU DER PRIVATEN BAUSPARKASSEN**

Postfach 30 30 79
D - 10730 BERLIN
Tel.: +49 30 59 00 91 - 500
Fax: +49 30 59 00 91 - 501
e-mail: bausparkassen@vdpb.de
webseite: www.bausparkassen.de

▪ **KUNDENBESCHWERDESTELLE BEIM BUNDESVERBAND
DER DEUTSCHEN VOLKSBANKEN UND RAIFFEISENBANKEN (BVR)**

Postfach 30 92 63
10760 Berlin
Tel: +49 30 20 21
Fax: +49 30 20 21- 1900
e-mail: poststelle@bvr.de
website: www.bvr.de

- **BUNDESVERBAND ÖFFENTLICHER BANKEN DEUTSCHLANDS (VÖB)**

Kundenbeschwerdestelle
Postfach 11 02 72
10832 Berlin
Tel: +49 30 81 92 - 0
Fax: +49 30 81 02 - 222
e-mail: postmaster@voeb.de
website: www.voeb.de

- **DEUTSCHER SPARKASSEN UND GIROVERBAND**

There is no central Ombudsman-scheme for members of the association of savings banks. The Ombudsman-schemes of the regional savings banks associations are competent

3. Competence

3.1 Level: Sectoral system. To date, the member institutions of the "Bundesverband deutscher Banken e.V.", "(Scheme 1 a) and the "Verband der Privaten Bausparkassen e.V." (Scheme 1 b), the member institutions of "Bundesverband der deutschen Volksbanken und Raiffeisenbanken", (Scheme 1 c), „Bundesverband der öffentlichen Banken Deutschlands" (Scheme 1 d) and the member institutions of the regional savings banks associations (Scheme 1 e) belong to this system, i.e. private banks, regional banks, public banks, savings banks, cooperative banks, savings banks and mortgage banks . All credit institutions, which are members of the vdp, are also members of other banking federations and thus take part in the Ombudsman procedures of these federations.

3.2 Institutions / types of institutions / financial products covered by the out-of-court authority/ies: the out-of-court authorities cover all financial products.

3.3 Financial intermediaries: Not covered.

4. Type of out-of-court authority/ies

4.1 Private or public out-of-court scheme: Private.

4.2 Out-of-court scheme managed by: The "Bundesverband deutscher Banken" (Scheme 1 a), "Verband der Privaten Bausparkassen e.V." (Scheme 1 b), "Bundesverband der deutschen Volksbanken und Raiffeisenbanken", (Scheme 1 c), „Bundesverband der öffentlichen Banken Deutschlands" (Scheme 1 d)and the regional savings banks associations.

4.3 Out-of-court scheme financed by: The "Bundesverband deutscher Banken" and "Verband der Privaten Bausparkassen e.V." (Scheme 1 b), "Bundesverband der deutschen Volksbanken und Raiffeisenbanken", (Scheme 1 c), „Bundesverband der öffentlichen Banken Deutschlands" (Scheme 1 d) and the regional savings banks associations (scheme 1 e)

5. Beneficiaries:

The Ombudsman can be appealed to:

- If the complainant is a consumer. The procedure does not apply when the litigation concerns a commercial or self-employed business of the complainant;
- Without restrictions the consumer, if the matter of the complaint concerns a cross-border payment as defined in the EU Commission recommendation concerning the transparency of bank conditions in cross-border financial transactions of 14 February 1990.

6. Cost for the consumer: This service is free of charge.

7. Brief description of the procedure(s) to be followed by the complainant:

⇒Specify possible time limits for bringing the complaint to the scheme.

⇒Specify whether the decision is binding on the credit institution, on the consumer, on both parties.

Bundesverband deutscher Banken e.V.:

The decision is binding for the credit institution if the amount does not exceed €5,000. The decision is not binding for the consumer, who can pursue a complaint in court. The bank can only do so if the amount is higher than €5,000.

Bundesverband der deutschen Volksbanken und Raiffeisenbanken / Bundesverband öffentlicher Banken:

The decision is binding neither for the consumer nor for the credit institution.

8. Is there a ceiling on the amount for which the out-of-court authority has competence and which could pose a problem as regards mortgage loans? No.

9. Average time taken for a complaint to be handled: From 8 to 10 weeks (Scheme 1 a), from 4 to 6 weeks (Scheme 1 b).

10. Does this system also cover complaints relating to cross-border operations? Yes.

11. Do the out-of-court authority/ies have the competence to:

11.1. Hear complaints based on the European Code of Conduct on Home Loans? Yes, because the Ombudsman has general competence to hear disputes between customers and their bank. Customers are therefore also able to contact the Ombudsman if they believe that they have suffered a disadvantage with regard to the Code of Conduct, i.e. if they are not given the single page information sheet for example.

11.2 Oblige a member establishment to apply the Code? No.

12. If the out-of-court authority/ies in your country is/are not competent, are the judicial courts competent? Yes.

13. In view of your system, what percentage of mortgage loans will fall within the jurisdiction of the out-of-court authority? We are unable to set a figure on this. In any case, all consumers who are customers of a credit institution that is a member of the "Bundesverband deutscher Banken" or of the "Verband deutscher Pfandbriefbanken" and members of the "Verband der Privaten Bausparkassen e.V." (Scheme 1 b), "Bundesverband der deutschen Volksbanken und Raiffeisenbanken", (Scheme 1 c) and „Bundesverband der öffentlichen Banken Deutschlands" (Scheme 1 d) and regional associations of savings banks (Scheme 1 e) have the possibility to appeal to the Ombudsman.

14. Does / do the out-of-court authority/ies publish an annual report on their activities? If yes, is the annual report available on the website of the out-of-court authority? The activities of the Ombudsman procedures are reported in the press releases of the "Bundesverband deutscher Banken" and the annual reports of the "Bundesverband deutscher Banken", „Bundesverband der deutschen Volksbanken und Raiffeisenbanken", (Scheme 1 c) and „Bundesverband der öffentlichen Banken Deutschlands" (Scheme 2 d).

IV. GREECE

1. Name of the existing out-of-court authority/ies / system(s):

Hellenic Ombudsman for Banking-Investment Services (H.O.B.I.S.)

2. Address and full references:

Hellenic Ombudsman for Banking-Investment Services

12-14 Karageorgi Servias Street
EL – 105 62 ATHENS

P.O. BOX 3391

EL – 102 10 ATHENS

Tel.: +30 1 337 6700

Fax: +30 1 323 8821

e-mail: contact@bank-omb.gr

website: www.bank-omb.gr

3. Competence

3.1 Level: Sectoral system.

3.2 Institutions / types of institutions / financial products covered by the out-of-court authority/ies:

- Banks (members of the Hellenic Bank Association);
- All products offered to consumers.

3.3 Financial intermediaries: Covered.

4. Type of out-of-court authority/ies

4.1 Private or public out-of-court scheme: Private.

4.2 Out-of-court scheme managed by: The Hellenic Bank Association.

4.3 Out-of-court scheme financed by: The Hellenic Bank Association.

5. Beneficiaries: All customers of a member bank of the Hellenic Bank Association. The scheme is open only to individuals (not legal entities) and only covers banking transactions that are not related to their professional activity.

6. Cost for the consumer: This service is free of charge.

7. Brief description of the procedure(s) to be followed by the complainant:

⇒Specify possible time limits for bringing the complaint to the scheme:

Before a complaint can be submitted to the Banking Ombudsman, the complainant must first complain, orally or in writing, directly to the person who is responsible within the branch of the Bank concerned (e.g. Department Supervisor, Branch Manager). If the customer is not satisfied with the solution offered he must bring his complaint to the Bank's Customer Service Department, which will provide him with a written answer within 10 days of the submission. If he is still not satisfied with the response or the ten working day time limit has expired without having received an answer, he may submit his complaint to the Banking Ombudsman within 1 month at the most. He has to complete a Complaint Form (available in all banks) describing his complaint and send it by mail to the Banking Ombudsman, along with the original or certified copy of all the documents relevant to his case. The Ombudsman acknowledges receipt.

The examination of complaints by the Banking Ombudsman does not in any way suspend any legal deadlines regarding taking the case to court.

⇒Specify whether the decision is binding on the credit institution, on the consumer, on both parties: it is not.

8. Is there a ceiling on the amount for which the out-of-court authority has competence and which could pose a problem as regards mortgage loans? No.

9. Average time taken for a complaint to be handled: Time varies depending on the nature and particularities of the case from 1 to 6 weeks.

10. Does this system also cover complaints relating to cross-border operations? Yes. The Greek scheme is member of Fin Net.

11. Do the out-of-court authority/ies have the competence to:

11.1. Hear complaints based on the European Code of Conduct on Home Loans? Yes.

11.2 Oblige a member establishment to apply the Code? Yes.

12. If the out-of-court authority/ies in your country is/are not competent, are the judicial courts competent? Yes.

13. In view of your system, what percentage of mortgage loans will fall within the jurisdiction of the out-of-court authority? Almost 100%.

14. Does / do the out-of-court authority/ies publish an annual report on their activities? If yes, is the annual report available on the website of the out-of-court authority? Yes to both questions.

V. SPAIN

1. Name of the existing out-of-court authority/ies / system(s):

The "Servicio de Reclamaciones del Banco de España" (Complaints Service of the Bank of Spain)

2. Address and full references:

COMPLAINTS DEPARTMENT OF THE BANK OF SPAIN

Alcalá, 50

ES - 28014 MADRID

Tel.: +34 913 385 068 and 913 385 851

website: www.bde.es

3. Competence

3.1 Level: Sectoral system.

3.2 Institutions / types of institutions / financial products covered by the out-of-court authority/ies:

- All Credit Institutions.
- All financial products.

3.3 Financial intermediaries: Not covered.

4. Type of out-of-court authority/ies

4.1 Private or public out-of-court scheme: Public (Banco de España), Banco de España is an institution under public law with its own legal personality and full public and private legal capacity. It is required to pursue its activities and fulfil its objectives with autonomy from the administration, carrying out its functions as specified in the law (Law 13/1994, of June 1st, of autonomy of Banco de España and Law 26/1998, of July 29th, about discipline and intervention of Credit institution.

Royal Decree 303/2004, of February 2nd, created the Commissioner for the Defense of Banking Services Client, but is not appointed by Ministry of Economy yet. The Commissioner has to be independent and is not linked to the administrative authorities. The Commissioner will direct current "Complaints Service of the Bank of Spain".

4.2 Out-of-court scheme managed by: The legal department of Banco de España.

4.3 Out-of-court scheme financed by: The Banco de España.

5. Beneficiaries: Any customer of a credit institution.

6. Cost for the consumer: This service is free of charge.

7. Brief description of the procedure(s) to be followed by the complainant:

⇒Specify possible time limits for bringing the complaint to the scheme.

⇒Specify whether the decision is binding on the credit institution, on the consumer, on both parties.

It is an informal procedure. A written request setting out the facts must be sent to the department. The complaint must however first be addressed to the "defender of the customer" or equivalent body where the institution has such a department. If the customer is not satisfied with the solution proposed or if no proposal has been made to him within a period of 2 months, he may present his complaint to the competent department of the Bank of Spain.

The decision of the Department is not binding on either the customer or the institution. The latter usually complies with it however. Legal proceedings are still open to the two parties.

8. Is there a ceiling on the amount for which the out-of-court authority has competence and which could pose a problem as regards mortgage loans? No.

9. Average time taken for a complaint to be handled: Maximum period of 3 months.

10. Does this system also cover complaints relating to cross-border operations? There is no special system for cross-border operations, but the general system will be applicable, provided that the operation has been carried out by an institution subject to the supervision of the Bank of Spain.

11. Do the out-of-court authority/ies have the competence to:

11.1. Hear complaints based on the European Code of Conduct on Home Loans? Yes.

11.2 Oblige a member establishment to apply the Code? No, but non-compliance is considered to be bad banking practice. All the Credit Institutions perform and fulfil the Resolutions of the Complaints Department of the Bank of Spain.

12. If the out-of-court authority/ies in your country is/are not competent, are the judicial courts competent? Yes.

13. In view of your system, what percentage of mortgage loans will fall within the jurisdiction of the out-of-court authority? 100 %.

14. Does / do the out-of-court authority/ies publish an annual report on their activities? If yes, is the annual report available on the website of the out-of-court authority? Yes to both questions.

VI. FRANCE

1. Name of the existing out-of-court authority/ies / system(s):

- The Ombudsman of the « Association Française des Sociétés Financières » (ASF). This system exclusively brings together the specialised institutions which are members of the association.
- Some general banks have established an internal Ombudsman (e.g. Société Générale, Crédit Lyonnais, Crédit du Nord).

2. Address and full references:

ASF MEDIATOR

24 Av. de la Grande Armée

F - 75854 PARIS Cedex 17

Tel.: +33 1 53 81 51 81

Fax: +33 1 53 81 51 90

website: www.asf-france.com

FBF (Fédération bancaire française) Ombudsman

Monsieur le Médiateur,

Fédération Bancaire Française

BP 151

75422 Paris cedex 09

Credit Foncier de France belongs to the Savings Banks Group

Ombudsman:

Monsieur le Médiateur du Groupe Caisse d'Épargne

TSA 10170

75665 Paris cedex 14

The complete list of banks ombudsmen in France can be found on the FBF website :

[http://www.fbf.fr/Web/internet/content_particuliers.nsf/\(WebPageList\)/mediation/\\$File/annuaire_des_mEDIATEURS_2004.pdf](http://www.fbf.fr/Web/internet/content_particuliers.nsf/(WebPageList)/mediation/$File/annuaire_des_mEDIATEURS_2004.pdf)

3. Competence

3.1 Level:

- Sectoral system: Ombudsman of the ASF;
- Internal to the institution.

3.2 Institutions / types of institutions / financial products covered by the out-of-court authority/ies:

- Specialised credit institutions, ASF members.
- Principal products concerned:
 - Consumer credits, home loans, leasing.
 - According to law: bank account and services related and linked to the bank account. This can be extended on a voluntary basis e.g. to credit services. This is the case with the ASF and Savings Banks ombudsmen (Médiateur des Caisses d'Épargne)

3.3 Financial intermediaries: Not covered

4. Type of out-of-court authority/ies

4.1 Private or public out-of-court scheme: Private organisation.

4.2 Out-of-court scheme managed by: managed by the credit institutions or professional associations (FBF, ASF)

4.3 Out-of-court scheme financed by: managed by the credit institutions or professional associations (FBF, ASF)

5. Beneficiaries:

- According to law, clients who have a bank account (compte bancaire). This can be extended to the clients, who are in a relationship with the bank for their personal needs (especially borrowers even if they do not have an bank account e.g. Savings Banks ombudsman);
- ASF: Exclusively the borrowers who have entered into a loan for their personal needs.

Professional activities are not covered. Disputes concerning unpaid amounts, conditions for the acceptance of financing and disputes which are subject to legal proceedings are excluded.

6. Cost for the consumer: This service is free of charge.

7. Brief description of the procedure(s) to be followed by the complainant:

⇒Specify possible time limits for bringing the complaint to the scheme: none.

⇒ Specify whether the decision is binding on the credit institution, on the consumer, on both parties: no, the opinion does not prevent the parties from applying to the courts.

The customer can only refer the matter to the mediator if he has previously referred it to the consumer department of the credit institution and:

- he was not satisfied with the solution proposed to him or
- he received no reply within a period of 2 months from his written application to this department.

Information about the procedure is given in the loan offers.

The Ombudsman does not replace the court. He decides impartially and his priority is to reach an amicable agreement. Failing this, the mediator gives an opinion.

8. Is there a ceiling on the amount for which the out-of-court authority has competence and which could pose a problem as regards mortgage loans? No.

9. Average time taken for a complaint to be handled: 2 months.

10. Does this system also cover complaints relating to cross-border operations? Yes, but the complaint has to be presented to the customer service.

11. Does the out-of-court authority/ies have the competence to:

11.1. Hear complaints based on the European Code of Conduct on Home Loans?

Yes. It is part of the ASF Ombudsman's general competence to assist in the settlement of disputes arising from mortgage contracts concluded by private individuals.

In the banking system, the competence of the Ombudsman is either restricted to the questions related to the bank account, or extended on a voluntary basis to the questions relating to credit (including mortgage credit) – this is the case for the Savings Banks Ombudsman.

11.2 Oblige a member establishment to apply the Code? No.

12. If the out-of-court authority/ies in your country is/are not competent, are the judicial courts competent? Yes.

13. In view of your system, what percentage of mortgage loans will fall within the jurisdiction of the out-of-court authority? The ASF Ombudsman covers the activity of specialised institutions, which amounts approximately to 15% of mortgage loans.

14. Does / do the out-of-court authority/ies publish an annual report on their activities? If yes, is the annual report available on the website of the out-of-court authority? Yes to both questions.

VII. IRELAND

1. Name of the existing out-of-court authority/ies / system(s):

Financial Services Ombudsman

2. Address and full references:

Financial Services Ombudsman Bureau

32 Upper Merion Street

IRL – Dublin 2

Tel.: + 353 1 662 0899

Fax: + 353 1 662 0890

e-mail: enquiries@financialOmbudsman.ie

3. Competence

3.1 Level: Statutory scheme established by the Central Bank and Financial Services Authority of Ireland Act, 2004

3.2 Institutions / types of institutions / financial products covered by the out-of-court authority/ies: All products and services offered by regulated entities (banks, building societies, insurance companies, credit unions, intermediaries, stockbrokers, pawnbrokers, moneylenders, bureaux de changes, hire purchase providers, health insurance companies).

3.3 Financial intermediaries: Covered for the business in respect of which they are authorised and regulated.

4. Type of out-of-court authority/ies

4.1 Private or public out-of-court scheme: Public

4.2 Out-of-court scheme managed by: The Financial Services Ombudsman Bureau

4.3 Out-of-court scheme financed by: Statutory levies on Regulated Entities

5. Beneficiaries: All personal customers of the regulated entities along with clubs, trusts, partnerships and limited companies with a turnover of up to three million euro. The scheme also applies to the above in situations where they have been offered a financial service or have been refused a particular service where it has been requested.

6. Cost for the consumer: The service is free of charge.

7. Brief description of the procedure(s) to be followed by the complainant:

⇒Specify possible time limits for bringing the complaint to the scheme.

⇒Specify whether the decision is binding on the credit institution, on the consumer, on both parties.

The Ombudsman suggests that complaints to its offices should take place where satisfaction is not forthcoming as a consequence of interactions with the regulated entity's internal complaints procedure. The Ombudsman cannot investigate matters which occurred more than 6 years before the complaint is made, matters which are already the subject of legal proceedings or issues which are within the jurisdiction of the (separate) Pensions Ombudsman. The complainant and the regulated entity are both entitled to appeal the Ombudsman's decision to the High Court.

8. Is there a ceiling on the amount for which the out-of-court authority has competence and which could pose a problem as regards mortgage loans? There is a ceiling of €250,000 on awards. It is possible, but not very likely that a claim in respect of a mortgage might exceed this figure.

9. Average time taken for a complaint to be handled: 4 months (estimate provided by Ombudsman, October 2005).

10. Does this system also cover complaints relating to cross-border operations?

There is no separate system for complaints relating to cross-border operations however the legislative provisions for the Ombudsman Scheme provide for the signing of Memoranda of Understanding between the Ombudsman and similar bodies in other EEA countries. In this context, complaints can be referred between the relevant schemes in Member States such that they are addressed as appropriate.

11. Does the out-of-court authority/ies have the competence to:

11.1. Hear complaints based on the European Code of Conduct on Home Loans? Yes, the Ombudsman would expect institutions to abide by any published Codes of Conduct.

11.2 Oblige a member establishment to apply the Code? No, the Ombudsman cannot oblige an institution to apply a Code.

12. If the out-of-court authority/ies in your country is/are not competent, are the judicial courts competent? Yes, a customer always has the right to pursue any complaint in a court.

13. In view of your system, what percentage of mortgage loans will fall within the jurisdiction of the out-of-court authority? Close to 100% (lending is not currently restricted to regulated entities but such entities would constitute the vast majority of the market).

14. Does / do the out-of-court authority/ies publish an annual report on their activities? If yes, is the annual report available on the website of the out-of-court authority? Yes to both questions.

VIII. ITALY

1. Name of the existing out-of-court authority/ies / system(s):

"Ombudsman bancario" (Banking Ombudsman)

2. Address and full references:

OMBUDSMAN BANCARIO

President: Avv. Giorgio Sangiorgio

Secretary: Prof. Sergio Bianconi

Via delle Botteghe Oscure 46

I - 00186 ROMA

Tel.: + 39 6 676 72 36

Fax: + 39 6 676 74 00

e-mail: om@abi.it

3. Competence

3.1 Level: Sectoral system.

3.2 Institutions / types of institutions / financial products covered by the out-of-court authority/ies:

3.3 Financial intermediaries: Covered yes / no

4. Type of out-of-court authority/ies

4.1 Private or public out-of-court scheme: Private collegial body.

4.2 Out-of-court scheme managed by:

4.3 Out-of-court scheme financed by:

5. Beneficiaries: Consumers only.

6. Cost for the consumer: This service is free of charge.

7. Brief description of the procedure(s) to be followed by the complainant:

⇒Specify possible time limits for bringing the complaint to the scheme.

⇒Specify whether the decision is binding on the credit institution, on the consumer, on both parties.

There are no special forms to be used. A customer complaint should be submitted in writing with no deadline set on their complaint to be registered. The complaint must first be submitted to the ICBFAI branch of the bank concerned, which must respond within 60 days. If no satisfactory solution can be found, the customer should write to the Ombudsman (by registered mail with proof of receipt), giving a clear description of the complaint and a copy of all documentation and any correspondence between himself and the bank. The Ombudsman must respond within 90 days of receipt of the complaint.

The Ombudsman must give a motivated opinion. The Ombudsman's decisions are binding on the bank, not on the consumer.

8. Is there a ceiling on the amount for which the out-of-court authority has competence and which could pose a problem as regards mortgage loans? The limit on the amount in dispute is €50,000 (€10,000 for operations carried out before 31 December 2005).

9. Average time taken for a complaint to be handled: 90 days.

10. Does this system also cover complaints relating to cross-border operations? Yes.

11. Do the out-of-court authority/ies have the competence to:

11.1. Hear complaints based on the European Code of Conduct on Home Loans?

Yes, in the event that the consumer can demonstrate its damage value does not exceed €50,000.

11.2 Oblige a member establishment to apply the Code? No, except if the bank breaches the general principle of good faith in the performance of the contract, which is contained in the Code.

12. If the out-of-court authority/ies in your country is/are not competent, are the judicial courts competent? Yes.

13. In view of your system, what percentage of mortgage loans will fall within the jurisdiction of the out-of-court authority?

14. Does / do the out-of-court authority/ies publish an annual report on their activities? If yes, is the annual report available on the website of the out-of-court authority?

IX. LUXEMBOURG⁴

1. Name of the existing out-of-court authority/ies / system(s):

Article 58 of the Luxembourg Banking Act of 5 April 1993 gives the banking supervisory authority, the Institut Monétaire Luxembourgeois (IML), jurisdiction over complaints from customers of banks and other financial sector institutions (the "banks") and to exercise an influence on the banks to settle these disputes out of court and by means of a compromise.

In a Circular of 5 April 1995, the IML requires the banks to establish precise internal procedures and instructions to examine and process their customers' complaints. The IML only examines complaints after the bank's internal procedures for settling disputes have been exhausted.

2. Address and full references:

INSTITUT MONÉTAIRE LUXEMBOURGEOIS

L - 2983 LUXEMBOURG

Tel.: +352 40 29 29-221 (banks), 203 (management)

Fax: +352 49 21 80

3. Competence

3.1 Level:

- Sectoral system
- Procedure internal to the institution

3.2 Institutions / types of institutions / financial products covered by the out-of-court authority/ies:
All banks and financial sector institutions.

3.3 Financial intermediaries: Covered yes / no

4. Type of out-of-court authority/ies

4.1 Private or public out-of-court scheme: Public.

4.2 Out-of-court scheme managed by: Public authority - CSSF.

4.3 Out-of-court scheme financed by: Public authority - CSSF.

⁴ Last updated in 2001. Please note that in the meantime the IML has been replaced by the Commission de Surveillance du Secteur Financier

5. Beneficiaries: The system is intended for the customers of the banks that are supervised by the IML. The bank's internal procedures for settling disputes are in principle accessible to every customer, as the IML does not lay down any conditions. Furthermore, according to article 58 of the Banking Act, customers of banks subject to the supervision of the IML can turn to the IML if the bank rejects their complaints. The customer must however first have exhausted the bank's internal procedures for settling the dispute. The IML is no longer competent if a party has brought legal proceedings.

6. Cost for the consumer: This service is free of charge

7. Brief description of the procedure(s) to be followed by the complainant:

⇒Specify possible time limits for bringing the complaint to the scheme.

⇒Specify whether the decision is binding on the credit institution, on the consumer, on both parties.

If the customer is acting in good faith, the bank must inform the customer who is dealing with the complaint and how he can reach this person. Each bank must designate a member of the management who is responsible for handling complaints. The bank's reply must be given as soon as possible and reasons must be given if the complaint is rejected.

If the customer is obviously not acting in good faith, the bank should terminate the agreement which is no longer based on mutual trust.

If the complainant has exhausted the internal procedure at the bank, he can apply to the IML. If this is not the case, the IML will call on him to do so and where appropriate name the person responsible at the bank. The complainant must communicate the bank's reply to the IML, or where appropriate the fact that it has not replied. If the bank gives no reply or a reply which the customer does not agree with, the IML may possibly, where this seems useful, arrange a discussion with the two parties. If the IML has compiled a full report, it takes a reasoned decision and calls on the parties to settle their disputes on the basis of this decision and to inform it of the progress. If the parties cannot or do not want to agree, the IML informs the customer of the possible legal proceedings available to him. If a party has taken legal proceedings, the IML ends its mediation.

If a department of a bank cannot give a reply to a complaint independently, it must forward it to a superior or to the customer complaints' department. The customer must be informed as to who is handling the complaint and how he can reach this person. The decision of the bank must be reasoned if it rejects the complaint. The IML does not take binding decisions; the customer can instigate legal proceedings at any time.

8. Is there a ceiling on the amount for which the out-of-court authority has competence and which could pose a problem as regards mortgage loans?

9. Average time taken for a complaint to be handled: The IML requires the banks to handle complaints swiftly. At the IML itself, the complaint is handled within 6 weeks to 6 months in more complex cases.

10. Does this system also cover complaints relating to cross-border operations? Yes.

11. Does the out-of-court authority/ies have the competence to:

11.1. Hear complaints based on the European Code of Conduct on Home Loans? Yes.

11.2 oblige a member establishment to apply the Code? No.

12. If the out-of-court authority/ies in your country is/are not competent, are the judicial courts competent?

13. In view of your system, what percentage of mortgage loans will fall within the jurisdiction of the out-of-court authority?

14. Does / do the out-of-court authority/ies publish an annual report on their activities? If yes, is the annual report available on the website of the out-of-court authority?

X. HUNGARY

1. Name of the existing out-of-court authority/ies/system(s):

There are two alternative redress systems in Hungary:

- The Hungarian Chamber of Commerce and Industry runs the conciliation bodies ("*békéltető testület*") set up on the basis of the Consumer Protection Act;
- There are several private mediation offices offering mediation services e.g. concerning consumer disputes.

The Hungarian Parliamentary Commissioner (Ombudsman) and the Deputy Commissioner for Civil Rights is rather in charge of identifying and disclosing unlawful or unethical practice of public bodies or economic organisations e.g. – violating constitutional rights of citizens. Based on its reports and advice the legislator may change the law or enact necessary amendments. Although inquiries are commenced on the basis of private complaints of citizens, the inquiry aims to address general problems and not to resolve individual disputes.

In respect of this survey, arbitrational courts are not regarded as out-of-court authorities.

2. Address and full references:

The conciliation bodies of the Hungarian Chamber of Commerce and Industry work in parallel to the regional chambers.

HUNGARIAN CHAMBER OF COMMERCE AND INDUSTRY

H-1055 Budapest

Kossuth Lajos tér 6-8.

Tel.: +36-1-474-5141

Fax: +36-1-474-5105

English website: www.mkik.hu

Contacts to regional chambers are available on the website.

Contacts to private mediation offices are listed on the website www.mediator.lap.hu.

3. Competence

3.1 Level:

Both forums may be engaged in any kind of consumer dispute. No special requirement applies to the person of the mediator or to the composition of the conciliation body with respect to professional

knowledge in financial services e.g. According to the Consumer Protection Act the scope of the conciliation body includes the out-of-court settlement of consumer legal disputes regarding the quality and safety of goods and services, the application of product liability regulations and the conclusion and performance of contracts.

3.2 Institutions/types of institutions/financial products covered by the out-of-court authority/ies:

No limitations. Any legal or natural person may enlist the services of mediators or conciliation bodies.

3.3 Financial intermediaries:

Please see as above.

4. Type of out-of-court authority/ies:

4.1 Private or public out-of-court scheme:

Conciliation bodies might be supported by local governments with respect to their operation, based on a contract to be concluded with the regional chamber. Mediators or mediation offices are private entities for-profit.

4.2 Out-of-court scheme managed by:

Conciliation bodies - Hungarian Chamber of Commerce and Industry. Mediators or mediation offices are private entities.

4.3 Out-of-court scheme financed by:

Costs of the procedure of the conciliation body will be born by the unsuccessful party. Unless otherwise agreed, the parties bear the costs of the mediator equally.

5. Beneficiaries:

Only consumers may initiate the intervention of the conciliation body, whereas the intervention of a mediator may be initiated by both consumers and economic organisations.

6. Cost for the consumer:

Please see point 4.3.

7. Brief description of the procedure(s) to be followed by the complainant:

Procedure of the conciliation body

Conciliation bodies are established with a view to settling disputes between an economic organisation and a consumer or, should this process fail, to deciding on the matter. The consumer's permanent or temporary residence or the registered office of the organisation initiating the proceedings establishes the jurisdiction of the competent conciliation body. A prerequisite for the initiation of the conciliation body's intervention is that the consumer has already attempted to settle the case directly with the economic organisation involved. In this respect, the economic organisation has to have made a serious attempt at cooperation. If the economic organisation does not agree with the consumer's complaint, it shall inform the consumer in writing with a brief explanation attached. Following the above conciliation, the proceeding of the conciliation body starts on the petition of the respective party.

The petition shall be presented by the consumer, or in a case involving a number of consumers, by the non-governmental organisation representing consumer interests. The petition shall be submitted to the chairman of the conciliation body in writing or in an electronic format. The petition shall contain: a) the name and address of the consumer, or his place of residence, or the name and registered office of the organisation initiating the proceedings and the authorisation of the parties affected; b) the name and registered office of the economic organisation which is the subject of the complaint; c) a brief description of the complaint, along with the facts and evidence in support; d) the consumer's declaration that he attempted to settle the dispute directly with the economic organisation; e) the motion for the decision of the body.

The conciliation body shall act in a council of three members ("council"). One member of the acting council shall be appointed by the consumer initiating the procedure or the social organisation representing consumer interests, while another member should be appointed by the economic organisation. The chairman of the council shall be appointed by the two members delegated as described before. Should the parties deem that the settlement of the case is simple and agree upon a single-man council, he may conduct the proceedings alone. In this case, he must be a lawyer.

The filing of the petition has several legal effects. Initiation of the proceedings means first of all the discontinuation of the limitation period. The resolution of the council shall be:

- a) a recommendation, if the economic organisation involved in the case has stated that it does not accept the decision of the council as obligatory, or
- b) shall be an obligatory resolution, if the economic organisation involved in the case has declared that it will accept the decision of the arbitration board as obligatory upon initiation of the procedure (submission) or upon announcement of the resolution. Within fifteen days of receiving the obligatory resolution, any party may file a petition with the competent county court to have the resolution annulled, but only based on the fact that the composition or the council or the procedure of the council did not comply with the provisions of the Consumer Protection Act, or if the conciliation body did not have jurisdiction on the case.

The date of filing the complete petition shall be regarded as the initiation date. Within three working days of the initiation of the proceedings, the chairman of the conciliation body shall review whether

the board has jurisdiction and competence over the case and, in the event that the conciliation body has does not, shall forward the case without delay to the appropriate organisation in terms of jurisdiction and competence. In the event that the conciliation body's jurisdiction and competence is established, the chairman shall set a hearing date for the parties within thirty days of the initiation of the proceedings. The economic organisation affected by the complaint shall be ordered to file a written statement (response to the petition) within five days on the legitimacy of the complaint, the circumstances of the case, and the acceptance of the decision of the council as obligatory (submission). In the statement the economic organisation shall indicate the facts and evidence in support of its position and shall attach any documents (or copies of such), the contents of which it refers to as evidence. The obligation established in the resolution should be fulfilled within fifteen-days.

Should the economic organisation fail to comply with the council's recommendation, the conciliation body shall forward its resolution to the competent regional consumer protection agency and to the chamber operating the conciliation board; both the agency and the regional chamber are entitled to publish, without indicating the name of the consumer, the complaint and the results of the proceeding. The competent consumer protection agency is obliged to do so, if the recommendation concerns a broad range of consumers.

Should the economic organisation fail to fulfill the obligatory resolution of the council within the deadline specified, the consumer or the organisation initiating the proceeding may request the competent court to attach a writ of execution to the council's resolution.

Procedure involving a mediator

The goal of the procedure is the peaceful settlement of the dispute through an agreement of the parties. The Act on Mediation contains the requirements laid down for the mediator and the official registration of mediators. The process itself and the possible methods used to achieve an agreement are not regulated. Naturally, the parties must be committed to a peaceful settlement of the dispute and act accordingly, otherwise the procedure is hindered. The mediator should be able to provide possible solutions for the settlement. The agreement of the parties does not exclude any later proceedings for (legal) remedy. In a possible later lawsuit the declarations and statements of the parties may not be raised as evidence.

8. Is there a ceiling on the amount for which the out-of-court authority has competence and which could pose a problem as regards mortgage loans?

No limitations.

9. Average time taken for a complaint to be handled:

The procedure of the conciliation bodies lasts no longer than two to three months. With respect to the Act on Mediation, the procedure is automatically concluded after four months, unless otherwise agreed by the parties.

10. Does this system also cover complaints relating to cross-border operations?

There are no limitations.

11. Do the out-of-court authority/ies have the competence to:

11.1. Hear complaints based on the European Code of Conduct on Home Loans?

Yes, without any restriction. One of the mortgage banks of the Association of Hungarian Mortgage Banks also indicated a mediation office as a possible out-of-court remedy.

11.2 Oblige a member establishment to apply the Code?

No.

12. If the out-of-court authority/ies in your country is/are not competent, are the judicial courts be competent?

Judicial courts are competent in any legal dispute.

13. In view of your system, what percentage of mortgage loans will fall within the jurisdiction of the out-of-court authority?

Given that the above out-of-court alternatives of resolving consumer disputes are not widely accepted or particularly well-known, it is likely that there will be only a small percentage of cases resolved in this way. However, the legislator has introduced amendments to support such redress systems e.g. When filing a petition with a civil court, the plaintiff has to indicate whether or not any mediation has taken place. Furthermore, in its last recommendation from October 2006 the Hungarian Financial Services Supervisory Authority encouraged financial institutions to use ESIS-like sheets, also indicating that consumer disputes might be resolved by conciliation bodies and mediators too.

14. Does / do the out-of-court authority/ies publish an annual report on their activities? If yes, is this annual report available on the website of the out-of-court authority?

The Hungarian Chamber of Commerce and Industry publishes in its yearly bulletin the number of cases negotiated by its conciliation bodies.

XI. THE NETHERLANDS

1. Name of the existing out-of-court authority/ies / system(s):

- Klachteninstituut Financiële Dienstverlening (Financial Services Complaints Institute) covering:
 - The Ombudsman
 - The Arbitration Commission

2. Address and full references:

2 Postbus 93257
NL 2509 AG Den Haag
Tel: 0031 900 355 22 48
Email: info@kifid.nl
Website: www.kifid.nl

3. Competence

3.1 Level:

System for all private clients of financial service providers in the Netherlands

3.2 Institutions / types of institutions / financial products covered by the out-of-court authority/ies

All financial services and products

3.3 Financial intermediaries: Covered.

4. Type of out-of-court authority/ies

4.1 Private or public out-of-court scheme: Private.

4.2 Out-of-court scheme managed by: Financial Services Complaints Institute

4.3 Out-of-court scheme financed by: Financial Services Providers

5. Beneficiaries:

All consumers who want or have obtained a financial service or a financial product

6. Cost for the consumer: The average cost is €35.

7. Brief description of the procedure(s) to be followed by the complainant:

⇒Specify possible time limits for bringing the complaint to the scheme.

⇒Specify whether the decision is binding on the credit institution, on the consumer, on both parties.

- a) First of all the complainant must try to reach an agreement with the financial service provider;
- b) If that fails, the complainant can bring the case to the Ombudsman. The Ombudsman mediates between the complainant and the financial service provider;
- c) If no agreement can be reached, the complainant can address the Arbitration Commission. The Commission gives both parties the opportunity to be heard;
- d) The Commission's decision is binding on both parties.

8. Is there a ceiling on the amount for which the out-of-court authority has competence and which could pose a problem as regards mortgage loans? Yes, the ceiling is €1,000.000.

9. Average time taken for a complaint to be handled: A couple of months.

10. Does this system also cover complaints relating to cross-border operations? Only if Dutch law is applicable to the financial service or financial product.

11. Do the out-of-court authority/ies have the competence to:

11.1. Hear complaints based on the European Code of Conduct on Home Loans? Yes.

11.2 oblige a member establishment to apply the Code? No, however, nearly 100% of the professional Dutch mortgage lenders subscribe to the national Code.

12. If the out-of-court authority/ies in your country is/are not competent, are the judicial courts competent? Yes.

13. In view of your system, what percentage of mortgage loans will fall within the jurisdiction of the out-of-court authority? 100%. Dutch law compels all financial services providers to adhere to out-of-court settlements for disputes with consumers.

14. Does / do the out-of-court authority/ies publish an annual report on their activities? Yes. **If yes, is the annual report available on the website of the out-of-court authority?** Yes.

XII. AUSTRIA⁵

1. Name of the existing out-of-court authority/ies / system(s):

There is no national Ombudsman in Austria. The Austrian members of the EMF have set up Ombudsmen with the "Verband der Österreichischen Landes-Pfandbriefbanken", the "Creditanstalt AG" and the "Erste Bank AG".

2. Address and full references:

▪ VERBAND DER ÖSTERREICHISCHEN LANDES-PFANDBRIEFBANKEN

Ombudsmann Mag. Bernhard Freudenthaler
Brucknerstr. 8
A - 1040 Wien
Tel.: +43 1 505 87 32-0
Fax: +43 1 505 87 32 20
e-mail: verband@hypoverband.at

▪ CREDITANSTALT AG

Ombudsmann des Verbandes österreichischer Banken und Bankiers
Dr. Harald Rassl
Postfach 132
A - 1013 Wien
Tel.: +43 1 313 33 422 22
website: www.creditanstalt.co.at

▪ ERSTE BANK AG

Fr. N. Lewisch Kundenmanagement / Ombudsstelle
Milchgasse 1
A - 1010Wien
website: www.sparkasse.at/erstebank

3. Competence

3.1 Level:

- Sectoral system;
- System internal to the bank.

3.2 Institutions / types of institutions / financial products covered by the out-of-court authority/ies:

- The banks which have set up such a scheme;

⁵ Last updated in 2001

- The financial products which they offer.

3.3 Financial intermediaries: Not covered.

4. Type of out-of-court authority/ies

4.1 Private or public out-of-court scheme: Private scheme.

4.2 Out-of-court scheme managed by: The association / the bank.

4.3 Out-of-court scheme financed by: Each association or institution finances its out-of-court authority individually.

5. Beneficiaries: The consumers.

6. Cost for the consumer: This service is free of charge.

7. Brief description of the procedure(s) to be followed by the complainant:

⇒Specify possible time limits for bringing the complaint to the scheme.

⇒Specify whether the decision is binding on the credit institution, on the consumer, on both parties.

There is no special procedure. The decision is not binding on the credit institution or the consumer.

8. Is there a ceiling on the amount for which the out-of-court authority has competence and which could pose a problem as regards mortgage loans? No.

9. Average time taken for a complaint to be handled:

10. Does this system also cover complaints relating to cross-border operations? Yes, as far as possible.

11. Do the out-of-court authority/ies have the competence to:

11.1. Hear complaints based on the European Code of Conduct on Home Loans?

Yes.

11.2 Oblige a member establishment to apply the Code? No.

12. If the out-of-court authority/ies in your country is/are not competent, are the judicial courts competent? Yes.

13. In view of your system, what percentage of mortgage loans will fall within the jurisdiction of the out-of-court authority?

14. Does / do the out-of-court authority/ies publish an annual report on their activities?

Not at present. **If yes, is the annual report available on the website of the out-of-court authority?**

XIII. POLAND

1. Name of the existing out-of-court authority/ies/system(s):

“Bankowy Arbitraż Konsumencki” (Banking Consumer Arbitrage)

2. Address and full references:

Bankowy Arbitraż Konsumencki

ul. Kruczkowskiego 8

00-380 Warszawa

Polska

Tel. +48 22 48 68 400

3. Competence

3.1 Level: Sectoral system

3.2 Institutions / types of institutions / financial products covered by the out-of-court authority/ies:

All banks – members of the Polish Bank Association, as well as the banks that are not members of the Polish Bank Association, but which have made a statement that they would subordinate to the settlements of the Arbitrage.

3.3 Financial intermediaries: Not covered

4. Type of out-of-court authority/ies:

4.1 Private or public out-of-court scheme: private

4.2 Out-of-court scheme managed by: Polish Bank Association

4.3 Out-of-court scheme financed by: Polish Bank Association

5. Beneficiaries:

Consumers (individuals that drew an agreement with a bank in a purpose not related to their economic activity), being the clients of banks – members of the Polish Bank Association. This refers to litigations, which originated after the 1st of July, 2001.

6. Cost for the consumer:

In principle 50 PLN (€12,5); 20 PLN (€5) in those cases where the value of the subject of litigation does not exceed 50 PLN (€12,5). If the consumer wins the case, the bank is obliged to reimburse the consumer.

7. Brief description of the procedure(s) to be followed by the complainant:

⇒Specify possible time limits for bringing the complaint to the scheme.

⇒Specify whether the decision is binding on the credit institution, on the consumer, on both parties.

The procedure is conducted in a simplified way.

The consumer must make an application in writing. It should provide the following information: consumer's personal data, bank's exact name, description of the complaint, a short justification, the documents proving the detriment, the value of the litigation. Attached to the application should be a paper confirming the end of the complaints procedure in a bank or the statement of the consumer saying that he did not receive an answer from a bank regarding the complaint within 30 days, as well as the receipt of payment for the application. The Banking Arbitrage is to some extent a second instance in the disputes between the banks and the clients.

The Arbiter returns the application (e.g. in cases where the proceedings would be illegal due to exceeded value of the subject of litigation, where the application refers to cases excluded from its competence, where the content of application is unclear) or examines the case. The Arbiter sends a copy of the complaint to the bank and requests that it respond within 14 days. After examining the case in a private meeting or in open court, the Arbiter issues a judgement. It contains: the parties of a case, the subject, the verdict and the justification.

The decision of the Banking Arbiter is binding for the bank, but not for the consumer – if the consumer is not satisfied with the decision, he may pursue a complaint in court.

8. Is there a ceiling on the amount for which the out-of-court authority has competence and which could pose a problem as regards mortgage loans?

The ceiling is 8.000 PLN (€2.000). This is adequate to cover complaints regarding the interest rate, which is the element most questioned by Polish borrowers.

The Arbiter also examines the following types of complaints: compensation in the event of mortgage refusal (in spite of having credit worthiness), charging consumer with costs of useless analyses (e.g. for property valuation in cases where there is no positive decision), compensation for delayed payment of credit tranches, etc.

9. Average time taken for a complaint to be handled:

ca. 6 weeks

10. Does this system also cover complaints relating to cross-border operations?

There is no exact provision to this effect. In January 2006, the Arbitrage became a part of FIN-NET. As such, the system also covers cross-border operations.

11. Do the out-of-court authority/ies have the competence to:

11.1. Hear complaints based on the European Code of Conduct on Home Loans?

No – so far none of the Polish financial institutions has implemented the Code of Conduct.

11.2 Oblige a member establishment to apply the Code? No

12. If the out-of-court authority/ies in your country is/are not competent, are the judicial courts be competent?

Yes, it is always possible to pursue a complaint in court.

13. In view of your system, what percentage of mortgage loans will fall within the jurisdiction of the out-of-court authority?

In the years 2004-2005, the Arbiter received 1572 applications regarding credits, 5% of which regarded mortgage credits.

14. Does / do the out-of-court authority/ies publish an annual report on their activities?

Yes.

IV. PORTUGAL

1. Name of the existing out-of-court authority/ies / system(s):

- Ombudsmen attached to the “Banco de Portugal”
- “Provedoria de Justiça”
- “DECO” (Consumer Protection Association)

2. Address and full references:

- **BANCO DE PORTUGAL**
Departamento de Supervisão Bancária
Rua Francisco Ribeiro, nº 2
P - 1150 LISBOA
Tel: +351 21 355 86 55
e-mail: info@bportugal.pt
website: www.bportugal.pt
- **PROVEDORIA DE JUSTIÇA**
Rua Pau de Bandeira, nº 9
P - 1200 LISBOA
Tel.: +351 21-608161
- **DECO**
Associação para a Defesa do Consumidor
Av. Engenheiro Avantes e Oiveira nº 13, 1 B Olaias
P – 1900 - 221 LISBOA
Tel.: +351 21 841 0800
Fax: +351 21 841 0802
website: www.deco.pt

3. Competence

3.1 Level:

- National system;
- Sectoral system.

3.2 Institutions / types of institutions / financial products covered by the out-of-court authority/ies:

3.3 Financial intermediaries: Covered yes / no

4. Type of out-of-court authority/ies

4.1 Private or public out-of-court scheme: Both private and public systems.

4.2 Out-of-court scheme managed by: National authority, credit institutions.

4.3 Out-of-court scheme financed by: National authority, credit institutions.

5. Beneficiaries: All interested parties (customer or not) who have a legitimate interest.

6. Cost for the consumer: This service is free of charge.

7. Brief description of the procedure(s) to be followed by the complainant:

⇒Specify possible time limits for bringing the complaint to the scheme.

⇒Specify whether the decision is binding on the credit institution, on the consumer, on both parties.

The complainant must send his written complaint to the Caixadirecto (customer assistance department) (by letter, fax, e-mail or via internet). The complaint initiates the procedure. The bank communicates the final decision to the complainant.

The final decision is always substantiated and sent to the complainant.

8. Is there a ceiling on the amount for which the out-of-court authority has competence and which could pose a problem as regards mortgage loans?

9. Average time taken for a complaint to be handled: Time variable depending on the nature and specific features of the case, but not exceeding 1 month.

10. Does this system also cover complaints relating to cross-border operations? Yes.

11. Do the out-of-court authority/ies have the competence to:

11.1. Hear complaints based on the European Code of Conduct on Home Loans? Yes.

11.2 Oblige a member establishment to apply the Code? No.

12. If the out-of-court authority/ies in your country is/are not competent, are the judicial courts competent? The judicial courts are always competent, at a civil level, to assess and judge pre-contractual responsibility for non-fulfilment of the unilateral commitment consisting in the adoption of a Code of Conduct. In this respect, evidence must be given that failure to respect the information obligation is the cause of the prejudice suffered by the complainant.

13. In view of your system, what percentage of mortgage loans will fall within the jurisdiction of the out-of-court authority? All mortgage loans may be subject to checks by the extra-judicial authority.

14. Does / do the out-of-court authority/ies publish an annual report on their activities? If yes, is the annual report available on the website of the out-of-court authority?

XV. SWEDEN

1. Name of the existing out-of-court authority/ies / system(s):

- The "Allmänna Reklamationsnämnden" (ARN) (the National Board for Consumer Complaints (NBCC))
- The "KonsumentOmbudsmannen" (KO) (the Consumer Ombudsman)

2. Address and full references:

- **NATIONAL BOARD FOR CONSUMER COMPLAINTS (NBCC)**

Box 174

S - 10123 STOCKHOLM

Tel.: +46 8 783 17 00

Fax: +46 8 783 17 01

e-mail: arn@arn.se

website: www.arn.se

- **CONSUMER OMBUDSMAN (CO)**

Lagergrens Gata 8

P.O. Box 48

S - 651 02 Karlstad

Tel: + 46 771 42 33 00

Fax: + 46 54 - 19 41 95

e-mail: konsumentverket@konsumentverket.se

website: www.konsumentverket.se

3. Competence

3.1 Level: National system.

3.2 Institutions / types of institutions / financial products covered by the out-of-court authority/ies:
All products offered to consumers.

3.3 Financial intermediaries: Covered yes / no

4. Type of out-of-court authority/ies

4.1 Private or public out-of-court scheme: Public.

4.2 Out-of-court scheme managed by: National authorities.

4.3 Out-of-court scheme financed by: National authorities.

5. Beneficiaries: Consumers in disputes with businesses. NBCC's main function is to recommend how to solve these disputes. Its decisions are not legally enforceable. However, the businesses generally comply with the decision handed down. Failing this, either party is free to instigate legal proceedings before a general court.

6. Cost for the consumer: This service is free of charge.

7. Brief description of the procedure(s) to be followed by the complainant:

⇒Specify possible time limits for bringing the complaint to the scheme.

⇒Specify whether the decision is binding on the credit institution, on the consumer, on both parties.

The consumer must have lodged a claim with the creditor/supplier without success before turning to the NBCC.

A petition to NBCC must be made within six months of the first time the business operator rejects the consumer's claims in part or in whole. If the business operator does not respond to a complaint at all, it is considered as if he/she has rejected the claims.

The NBCC can reject matters that cannot sufficiently be investigated or that otherwise are not appropriate to the NBCC's inquiry with regard to the written procedures and simplified working methods. This can affect e.g. matters, which require submission of verbal evidence, or large or complicated cases that require a comprehensive investigation.

The process at the NBCC is purely in writing. If the matter is not rejected for formal reasons, the NBCC asks the company to comment on the consumer's claims. The consumer in turn has an opportunity to see and comment on the company's response. Both parties have the right to submit written evidence in the form of e.g. contracts or certificates of inspection.

The dispute is usually settled at a meeting with the NBCC. The parties are not entitled to be present at the meeting. The chairperson is a lawyer and has court experience. The other members come from various consumer and trade organizations. Simple matters or matters in which the company does not respond are settled at the secretariat.

It can be added that:

- The Consumer Ombudsman (CO) represents consumer interests in relation to businesses and pursues legal action on behalf of consumers. The CO mainly acts in issues of general interest with a view to preventing improper action by businesses. The CO also should have the possibility of assisting consumers in general court proceedings concerning financial services.
- The Swedish Consumers' Banking & Finance Bureau is an independent agency whose objective is to meet consumers' need for neutral information and guidance with regard to financial services and to provide support in dealings with finance companies. All information and guidance is free of

charge. Bureau is set up by the Swedish Financial Supervisory Authority, The Swedish Consumer Agency, the Swedish Bankers' Association, the Swedish Securities Dealers' Association and the Swedish Investment Fund Association

8. Is there a ceiling on the amount for which the out-of-court authority has competence and which could pose a problem as regards mortgage loans? No.

9. Average time taken for a complaint to be handled: From 4 to 5 months.

10. Does this system also cover complaints relating to cross-border operations? Yes, the NBCC's inquiry is normally limited to contracts that have been entered into in Sweden. The NBCC will however handle complaints relating to cross-border operations if the complainant is living in Sweden or if the service is marketed in Sweden and if the NBCC considers that its decision would have any effect.

Consumers that have come into conflict with a business operator in a country within the EU other than their own can turn to their European Consumer Centre or Euroguichet for advice and help. The Swedish European Consumer Centre is called Konsument Europa.

The centres work in a network, EEJ-Net, with the aim of providing consumers access to fast and easy dispute resolution. In Sweden, the NBCC has the task of trying disputes that arise between consumers from other EU countries and Swedish business operators.

For financial disputes there is a special European network that takes care of cross-border disputes in the financial arena. As for Sweden, Konsument Europa is a part of this network while the NBCC is the authority that tries disputes in Sweden in this arena.

11. Do the out-of-court authority/ies have the competence to:

11.1. Hear complaints based on the European Code of Conduct on Home Loans? Yes, if the Code is accepted as good banking practice.

11.2 Oblige a member establishment to apply the Code?

No, it can only make a recommendation to that effect.

12. If the out-of-court authority/ies in your country is/are not competent, are the judicial courts competent? Yes.

13. In view of your system, what percentage of mortgage loans will fall within the jurisdiction of the out-of-court authority? 100%.

14. Does / do the out-of-court authority/ies publish an annual report on their activities? If yes, is the annual report available on the website of the out-of-court authority?

Yes, an annual report is published and available on the website (however in Swedish only).

XVI. UNITED KINGDOM

1. Name of the existing out-of-court authority/ies/system(s):

Financial Ombudsman Service

2. Address and full references:

THE FINANCIAL OMBUDSMAN SERVICE (FOS)

South Quay Plaza

183 Marsh Wall

UK - LONDON E14 9SR

Tel.: +44 20 7964 1000

website: www.financial-Ombudsman.org.uk

3. Competence

FOS covers all loans regulated by the Financial Services Authority (FSA) or by the Office of Fair Trading (OFT) under the Consumer Credit Act 1974. It also covers all loans by lenders licensed/registered by the FSA or OFT.

Intermediaries and lenders are covered.

4. Type of out-of-court authority/ies:

The Financial Ombudsman Service is an independent body, funded by those financial institutions who belong to it and whose complaints are referred to it. Members of the Ombudsman Scheme pay an annual fee plus an individual case fee per complaint.

5. Beneficiaries:

Borrowers

6. Cost for the consumer:

Normally nil.

7. Brief description of the procedure(s) to be followed by the complainant:

Financial Services Ombudsman Scheme: The complainant (customer) writes a letter to the Ombudsman setting out his complaint. The Ombudsman will reply asking if the customer has tried to resolve the matter with the lender. If this is not the case, the Ombudsman will refer the customer back to the lender. Once the situation has reached "deadlock", however, the Ombudsman will consider

whether the complaint falls within his jurisdiction and whether it is valid. If he decides to proceed with an investigation, he will ask the lender to supply information about the complaint. Both parties - customer and lender- are sent copies of all material sent by the other to the Ombudsman and therefore given an opportunity to comment on it. Oral hearings occasionally occur, but are rare.

The new FOS rules set timescales within which complaints must be dealt with internally, but there are no specified time limits once a complaint has been referred to the FOS.

8. Is there a ceiling on the amount for which the out-of-court authority has competence and which could pose a problem as regards mortgage loans?

£100,000.

9. Average time taken for a complaint to be handled:

This varies.

10. Does this system also cover complaints relating to cross-border operations?

No.

11. Do the out-of-court authority/ies have the competence to:

11.1. Hear complaints based on the European Code of Conduct on Home Loans? Yes.

11.2 Oblige a member establishment to apply the Code?

The extra-judicial authorities cannot oblige a member establishment to apply the Code but they can make awards to customers who bring complaints to them. The highest amount that can be awarded is £100,000. The bodies responsible for monitoring compliance with the Code (these are not the same as the extra-judicial authorities who are responsible for dealing with complaints) will be aware of cases where lenders have been found to be in breach of the Code and it will be up to them to take such matters up with the lenders concerned to ensure that a similar breach does not occur again.

Awards made under the Arbitration Scheme can be enforced under the Arbitration Acts – so a consumer can go to Court to force a lender or intermediary to pay them. In practice, any refusal by a lender or intermediary to pay an award made by an Arbitrator would be regarded as a serious disciplinary matter by the Mortgage Code Compliance Board, which is responsible for monitoring and enforcing compliance with the UK Mortgage Code.

12. If the out-of-court authority/ies in your country is/are not competent, are the judicial courts competent? As stated above, the extra-judicial authorities are competent. There is nothing to prevent a consumer from seeking redress in the judicial courts in the first instance, but the main

purpose of the Ombudsman and arbitration schemes is to provide customers with a much cheaper and quicker form of redress.

13. In view of your system, what percentage of mortgage loans will fall within the jurisdiction of the out-of-court authority?

All fall inside except unregulated loans issued by lenders who are not banks or building societies. Probably less than 1% fall outside.

14. Does / do the out-of-court authority/ies publish an annual report on their activities? If yes, is the annual report available on the website of the out-of-court authority? Yes to both questions.

XVII. NORWAY⁶

1. Name of the existing out-of-court authority/ies / system(s):

"Bankklagenemnda" (The Complaints Board for Consumers in Banking and Finance Matters).

The Complaints Board was established by the different bankers and finance associations in Norway. It has a permanent secretariat which is completely impartial in relation to the parties in a complaint case.

2. Address and full references:

BANKKLAGENEMNDA

P.O. Box 6855, St Olavs plass

N - 0130 OSLO

Tel.: +47 22 20 30 14

Fax: +47 22 20 31 90

Visiting address: Universitetsgt.8, 1. Floor, OSLO

website: www.bankklagenemnda.no

3. Competence

3.1 Level: Sectoral system

3.2 Institutions / types of institutions / financial products covered by the out-of-court authority/ies:
Banks and finance associations.

3.3 Financial intermediaries: Not covered.

4. Type of out-of-court authority/ies

4.1 Private or public out-of-court scheme: Private.

4.2 Out-of-court scheme managed by: Its members, the banks and finance associations.

4.3 Out-of-court scheme financed by: Its members, the banks and finance associations.

5. Beneficiaries: The Complaints Board deals with all legal disputes concerning a private individual's contractual relationship with a Norwegian bank, finance house or mortgage company. The complaint must apply to general banking matters, i.e. all types of deposits and loans, such as house-building

⁶ Last updated in 2001

loans, promissory notes, mortgages, wage accounts, etc. A complaint may also apply to payment transaction services such as cheques, giro and cash point or payment cards.

6. Cost for the consumer: This service is free of charge.

7. Brief description of the procedure(s) to be followed by the complainant:

⇒Specify possible time limits for bringing the complaint to the scheme.

⇒Specify whether the decision is binding on the credit institution, on the consumer, on both parties.

Before a complaint can be dealt with by the Complaints Board, the complainant must first complain to the institution concerned which then must be allowed a reasonable period to reply to the complaint. If the complainant should then decide to bring the case before the Board, he must submit a written complaint, detailing the underlying reasons for the complaint and the result that is expected. Documents relating to the case should be attached to the complaint.

The Board will take a decision on a complaint basing its findings on current Norwegian law and will issue a statement specifying the underlying reasons for the decision. The statement will show whether the decision has been unanimous. If any of the Board members have been in disagreement with the decision, the statement will identify such members. The reasoning of the minority will also be given.

Statements made by the Board are advisory for the parties. In the case of statements which are not in favour of the finance institution and if the institution does not intend to be guided by the Board's statement, the institution must submit a report specifying the grounds for refusal within a period of three weeks.

The Complaints Board does not deal with cases which have been brought before or decided by the courts, including the court of execution and enforcement, or cases dealt with by the execution and enforcement commissioner.

If it is not possible to clarify the facts of the case through the written form of processing by the Board, or if the dispute is not suitable for processing by the Board, the complaint may be rejected.

If a complainant is in doubt as to whether a dispute can be handled by the Board, the Secretariat will give the complainant verbal guidance. As far as possible, the secretariat will also give a general explanation on the law applying to matters within the scope of the Board.

8. Is there a ceiling on the amount for which the out-of-court authority has competence and which could pose a problem as regards mortgage loans? No.

9. Average time taken for a complaint to be handled: 2 months.

10. Does this system also cover complaints relating to cross-border operations? Yes, the Board handles cases against Norwegian banks and finance institutions, irrespective of the

complainant's nationality and if the complaint is a result of cross-border operations. The procedure is the same as described under question seven.

11. Do the out-of-court authority/ies have the competence to:

11.1. Hear complaints based on the European Code of Conduct on Home Loans? The Complaint Board has the competence to deal with all legal disputes concerning a private individual's contractual relationship with a bank, finance house or mortgage company. Its decision must be based on "Norwegian Law" in its broadest sense. A voluntary Code of Conduct is not common in the finance sector in Norway. The finance area is "heavily" regulated by acts adopted by the Parliament supplemented by regulations; in addition financial institutions apply standard form contracts prepared by the banking Industry and some developed in co-operation with the consumer authorities. Also former decisions by the Complaints Board are taken into consideration.

11.2 oblige a member establishment to apply the Code? No.

12. If the out-of-court authority/ies in your country is/are not competent, are the judicial courts competent? Yes, but they also base their decisions on Norwegian law.

13. In view of your system, what percentage of mortgage loans will fall within the jurisdiction of the out-of-court authority? As of now almost 100% coverage of mortgage loans offered by commercial credit institutions.

14. Does / do the out-of-court authority/ies publish an annual report on their activities? The Complaints Board publishes an annual report on its activities. If yes, is the annual report available on the website of the out-of-court authority?