

# CONSUMER PROTECTION ON THE BANKING SERVICES MARKET

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**Abstract:** *This article analyses an important part of consumer protection, namely consumer protection in the banking services sector (especially with regard to bank loans). The paper aims to create a clear picture of consumer protection on the banking market and how consumers perceive they are protected in this market. In this respect, a quantitative marketing research based on the survey method was carried out. The data collection tool was the questionnaire, with 246 consumers interviewed.*

**Key words:** *consumer protection, banking services, credit, financial institutions, marketing research.*

## 1. Introduction

The banking market is a continuously moving and developing market that has its own elements, different from those of other markets. The main function of commercial banks is to grant loans to applicants who meet the conditions of financial standing (economic capacity of a natural or legal person to repay, at maturity, the loans contracted, together with the related interest). Banks grant loans on their own capital or on account of the active balance resulting from the relatively constant difference between customer deposits and the average refunds they are required at one time.

In Romania, the financial and banking institutions are grouped as follows: Commercial banks, Savings houses, Homes for mutual benefit, Credit co-operatives, Pensions, Insurance companies and State treasury.

The materialization of the concept of consumer protection by creating an institutional framework at global, European and national level has led to the development of specific legislation regulating consumer protection in the banking field as well.

## 2. Consumer Protection on the Banking Market

As an important part of the social protection that a democratic society has to promote, and as a basic component of social protection programs, consumer protection is a set of provisions on public or private initiatives aimed at ensuring and continuously improving the respect of consumer interests.

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An outline of consumers' rights began to appear in the eighteenth century, but social action and legislative efforts to protect consumers' interests were definitely imposed in the second half of the twentieth century.

The concept of "consumer rights" originates in the "Consumer Rights Charter" defined by the former US president. J.F. Kennedy, who, on March 15, 1962, in the speech "On the Protection of Consumer Interests" addressed to the American Congress, stated his four fundamental rights (Dinu, 2011), namely the right to safety, the right to information, to choose the right to be heard.

In Romania, normative acts to regulate this field came after 1990, the adoption of the Government Ordinance no.21 / 1992 on consumer protection representing the first act that affirmed consumer rights in our country (Neacşu, 2011). An essential dimension of consumer protection in bank credit agreements is to remove the abusive clauses from these conventions. The business environment is anyway subject to various demands to rule against the sophistication of corporate frauds; thus, legislation towards ethics in business was to be expected. The question is how these new rules and regulations will become effective for the purpose they were created (Drumea, 2008).

The meaning attached to *consumers* is that of natural persons acting for purposes that are outside their commercial or professional activity. Therefore, consumer protection legislation does not apply to legal entities or natural persons when acting for commercial or professional purposes.

*Creditors* to whom credit consumers are protected are legal entities, including branches of credit institutions and non-bank financial institutions abroad, which carry out activities in Romania and which grant or commit to lend in the exercise of their commercial or professional activity. The legislation does not apply to credits obtained from individuals or legal entities that are not credit institutions and does not undertake to lend in the course of their business activity.

The interest rate is the benefit of the creditor to make available a sum of money to his debtor, quantified as a percentage of the amount borrowed, while the commission is a cost adjacent to the lending activity, separated by the interest rate. In addition to these two elements, the debtor may also pay other fees such as fees for the registration of warrants or forfeiture thereof, as well as notary fees or independent consultancy fees. All these elements can be found in the annual effective interest rate (DAC), which is the total cost of credit. Very common are situations in which, under the appearance of legality, credit institutions disregard consumers' rights, but in a subtle, even refined way. This is the case for a bank credit contract where, under the guise of contractual freedom and contract obligations, lending institutions sometimes insert and impose unfair terms. The company's staff specialists have the responsibility to promote a correct view on the content of the activities in this field (Madar, 2016) and also, to carry out permanent monitoring actions in order to gain customers' appreciations and loyalty (Băltescu, 2016).

On the services market, the contract is the one governing the relations between the parties (Boscor, 015). The principle of binding contract must be examined and interpreted in close connection with contractual solidarity, since the essence of the contract is constituted not only by the will of the contracting parties, but also by the contractual interest of each of them.

Since 5 April 1993, the adoption of Council Directive 93/13 / EEC, transposed into national law by Law No 193/2000, as amended, has given the court the power to oblige the amendment of the terms of a contract or to cancel it in so far as it appears that it contains abusive clauses. Law No. 193/2000 expressly stipulated the competence of the court to establish the unfairness of the contractual clauses.

Abusive clauses lead to an imbalance at the expense of the consumer, which, ultimately, addresses the judicial bodies. In most cases, the finding of abusive character is supported by a series of documents, administered evidence, including the proof of accounting expertise by a professional accountant (Anton, 2016). There are cases in which the judiciary needs further clarification or completeness and asks the expert *ex officio* or at the request of the parties to complete the report by producing a report with the response to the objections (Anton, 2017).

The main normative acts regulating the rights granted to credit consumers in Romania are:

- Ordinance no. 21/1992 on consumer protection, updated on 27/12/2008;
- Banking Law no. 58/1998 on banking activity;
- Law no.190 / 1999 (Art.11, 12, 13, 18 and 19) on the mortgage loan for real estate investments;
- Law no. 193/2000 on unfair terms between traders and consumers;
- Government Decision no. 244/2007 on competent authorities responsible for the enforcement of consumer protection legislation and cooperation between national authorities in this area;
- Order no. 72/2010 on measures to inform consumers;
- Emergency Ordinance no. 50/2010 on credit agreements for consumers;
- Order no. 164/2011 - ANPC President's Order on Consumer Information Measures by Banking and Non-Banking Companies;
- Law 77/2016 on the payment of real estate in order to settle the obligations assumed by credits.

Under the new national regulations, the need for introduction of an arbitration clause in the contracts governed by the Romanian law declined, but in the commercial contracts governed by a foreign law, the introduction of a rescission clause has certain advantages compared to the described situation when the judicial solution was decided upon (Bărbulescu, 2015).

Regarding the solutions that the court can make in case of finding abusive clauses in the bank credit agreement, the court has the alternative either to oblige the credit institution to modify the contractual clauses found to be abusive, subject to commencing damages or the solution of the dissolution of that contract (Iliescu, 2014).

There is also Directive 2008/48 / EC of the European Parliament and of the Council of 23 April 2008 on consumer credit agreements, which contains important legal provisions designed to protect consumers when they conclude and execute a credit agreement.

The progress made by adopting this consumer protection legislation in relation to bank credit agreements is significant.

An important protection offered to the consumer as a result of the adoption of this normative act is the creation of mechanisms to effectively guarantee respect for his right to information.

Another qualitative leap in terms of consumer protection in relation to bank credit agreements is the limitation of the costs that can be imposed on the consumer through the conclusion of the contract. Article 36 of the normative act in question contains an express enumeration of all these costs. In the same vein, some rules have been imposed on variable-rate credit agreements to protect consumers from changing interest rates. It also facilitated the consumer's ability to determine the termination of the credit agreement.

### **3. The Methodology**

Through a quantitative exploratory empirical research, 246 consumers were interviewed.

In this quantitative research, we used the survey technique, with Computer Assisted Web Interviewing (CAWI) as a tool for collecting data. Given the empirical but also exploratory nature of the research, we resorted to an un-probabilistic sampling method, namely the "snowball" type. Basically, only consumers who met the criteria to be included in research (those who have been using banking services for the past 5 years) were considered. This marketing research involved consumers who had used banking services in the last 5 years as the sampling population. The research focused on issues related to consumers' opinions, attitudes and intentions regarding banking services. The questionnaire included 17 questions, out of which 3 were identification questions.

The most important objectives of this research were:

- To identify banking services that are most commonly used by consumers;
- To identify aspects that influence consumers when they choose a banking institution;
- To identify consumers' opinions and attitudes regarding contracts in the banking market;
- To identify consumers' opinions and attitudes regarding bank credits;
- To establish the extent to which consumers know their rights in the banking market;
- To identify the problems and discontents that consumers have in the banking market.

The processing and analysis of the data from the 90 interviews were conducted using the SPSS system (Statistical Package for Social Sciences). This system is used in data processing to obtain useful information for decision-makers. The most common outputs are tables and graphs. The multiple processing possibilities (data grouping, data analysis, statistical tests etc.) offered by this software made it very popular when analysing data for marketing or sociological research (Constantin, 2012).

### 3. The Results

A first element that was examined in this research was the identification of banking services that are most commonly used by consumers (Table 1).

*The most used banking products and services*

Table 1

The most used banking products and services	Responses	
	N	Percent
receipts and payments	102	24,8%
cards in lei and foreign currency	96	23,3%
deposits	44	10,7%
checks	10	2,4%
loans in lei	8	1,9%
debit / salary card	134	32,5%
foreign exchange transactions	18	4,4%
Total	412	100,0%

It can be noticed that the most commonly used products and services include debit / wage cards (32.5%), receipts and payments (by 24.8%) and cards in lei and currency (with 23.3%), with the remainder of the products and services being slightly less significant than the most commonly used ones (between 1.9% and 10.7%).

It is important to know the elements that influence consumers when choosing a bank. Therefore, another researched issue refers to the variables that consumers consider important in choosing a banking institution which they will collaborate with in the future (Table 2).

*Descriptive Response Analysis Table*

Table 2

	N	Minimum	Maximum	Mean	Std. Deviation
Experience, tradition and prestige	246	1,00	5,00	3,5800	,93398
Possibility of obtaining credits	246	2,00	5,00	3,7100	,71485
Operations of settlements	246	2,00	5,00	4,0700	,72829
Quality / price ratio	246	2,00	5,00	4,2900	,70058
Valid N (listwise)	246				

Considering the answers as being punctuated as follows: 1 - not important, 2 - little important, 3 - indifferent, 4 - important, 5 - very important, the results of the analysis of this question are the following:

- The highest score (4.29) recorded the "quality-price ratio", which means that, when consumers choose a banking institution, they are primarily oriented to this aspect;

• The second place as a factor influencing the choice of a bank is the "settlement efficiency" with a score of 4.07;

• Other important issues for the respondents are the "experience tradition and prestige" and "the possibility of obtaining credits", which obtained scores of 3.58 and 3.71 respectively.

Another researched item is the knowledge of the most important aspects considered by consumers when purchasing a credit (Table 3). The analysis of this question revealed that the three most important aspects that respondents take into account when choosing a credit are:

- The credit costs - 26.4%;
- The waiting time for obtaining the credit - 18.6% ;
- The maximum amount granted - 13.2%.

*Frequency Response Table for Multiple Response Analysis*

Table 3

The most important aspects when considering acquiring a credit	Responses	
	N	Percent
The costs	148	26,4%
Maximum credit period	50	8,9%
The need for the guarantee	44	7,9%
The maximum amount granted	74	13,2%
The obligation to advance	38	6,8%
The simplicity of the procedure	70	12,5%
Waiting time	104	18,6%
Others	32	5,7%
Total	560	100,0%

Other aspects analysed in the qualitative research referred to credit agreements. Thus, a first aspect was whether, when the contracts for loans to respondents were concluded, all the clauses in the contract were specified. It was revealed that the majority of respondents (93.1%) said they had all the clauses in credit contracts and only 6.9% of the respondents considered that they did not know all the clauses when presenting the contract. Of the surveyed subjects, 55.2% consider that the contractual clauses were presented in a clear manner and explained to them.

Other researched issues considered:

- whether or not the respondents had any dissatisfaction with the credits, the terms stipulated in the contracts and / or the monthly rates paid for credits;
- whether those who have been dissatisfied have notified the banks about them and have resolved the issue.

Among the respondents, 62.1% said that they had had no dissatisfaction with banking services until then (Table 4). Those who had complaints notified the banks about them and most said they resolved the problem (72.7% of the respondents).

Frequency table

Table 4

Did you have any discontents?		Frequency	Percent	Valid Percent	Cumulative Percent
Valid	No	44	18,0	62,1	62,1
	Yes	34	11,0	37,9	100,0
	Total	78	29,0	100,0	
Missing	88,00	168	71,0		
<b>Total</b>		246	100,0		

Very few respondents knew their rights as consumers of banking services. Unfortunately, those who knew these rights (about 15%) and had been dissatisfied or found that their rights had been violated did almost nothing in this respect (only notified the bank of their dissatisfaction without addressing other authorities).

#### 4. Conclusions

In the framework of social protection policies promoted by any state, consumer policy must be considered as a stand-alone component with its own objectives, priorities and tools, well integrated with other state policies.

Without the consumer and consumption, it is unconceivable to operate the "consumer society" that characterizes the contemporary world. Understanding this reality, the European and national legislators progressively adopted and perfected legislation with a strong consumer protection. As credits stimulate consumption, special attention has been given, in this respect, to the protection of the consumers of banking services, especially bank loans. However, despite the existence of this legislation, reality is characterized by favouring the abuse of economic power by banking institutions.

In order to change this situation, it is obviously necessary to know this legislation with a protective nature both by consumers and especially by those who give advice and legal assistance. Research shows that most consumers are clients of at least one banking institution and the banking services they use most often are lei and currency cards, deposits and credits.

As regards the respondents who have bank loans, 29% of them have one or more credits (most of them personal loans). The majority of respondents said they were clearly presented with all the clauses in the credit agreements, they did not observe hidden interest on their loans, and, when they had complaints, they informed the banks and most of them were settled. From the point of view of their knowing the rights as consumers of banking services, it emerged that very few of them knew their rights, and

those who knew them did nothing but to notify the bank when their rights were violated.

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