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FIN-NET activity report

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financial dispute resolution network

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1. INTRODUCTION

FIN-NET is a network of national Alternative Dispute Resolution (ADR) schemes in the European Economic Area (EEA) countries (the EU Member States plus Iceland, Liechtenstein, and Norway). These ADR schemes are responsible for handling disputes between consumers and retail financial services providers, e.g. banks, insurance companies, investment funds, payment service providers, etc. FIN-NET was launched by the European Commission in 2001. Its membership has grown steadily since then. Initially only operating on a Commission Recommendation¹, FIN-NET's work is since 12 May 2016 guided by the Alternative Dispute Resolution Directive (ADR)².

FIN-NET has also support from outside of the EEA area. Switzerland and the Channel Islands participate as FIN-NET affiliates in the network on a best efforts basis.

All schemes within FIN-NET cooperate to provide consumers with easy access to out-of-court dispute resolution in cross-border cases. If a consumer has a dispute with a financial services provider regarding a product purchased cross-border, FIN-NET members will put the consumer in touch with the relevant ADR scheme and provide the necessary information about it. "The competent scheme" is the appropriate body responsible for the out-of-court settlement of consumer disputes for financial services in the country where the service provider is established. "The nearest scheme" is a body responsible for the out-of-court settlement of consumer disputes for the appropriate financial services sector in the consumer's country of residence.

The network works as follows: a consumer contacts an ADR scheme in his/her home country. The home country's ADR scheme establishes who the competent ADR scheme is in the service provider's country and informs the consumer. The home country's ADR scheme either transfers the case to the competent scheme or asks the consumer to do this. The consumer can also contact the competent scheme directly. The competent ADR scheme carries out the investigation and issues a decision/recommendation.

Recent developments

The first half of the year 2016 was still dedicated to the FIN-NET reform process in line with the ADR Directive. FIN-NET's members endorsed at the meeting of 22 April relevant changes to the Memorandum of Understanding (MoU)³, thereby aligning the network's operating rules to the quality criteria of the ADR Directive. Only ADR schemes designated by their national competent authorities in line with Article 20(2) are eligible to join FIN-NET from 12 May 2016 onwards. Existing members, which have not yet been designated, still benefit from a two-year transitional period.

FIN-NET already saw two successful new membership applications under its new operating rules in 2016: Austria's Schlichtung für Verbrauchergeschäfte and Slovakia's Banking Ombudsman of the Slovak Banking Association. Prior to the Slovak Banking Association's adherence, no other Slovak ADR scheme had been represented on FIN-NET. The organisation still missed at the end of 2016 ADR members in the following Member States: Bulgaria, Cyprus, Latvia, Romania and Slovenia. FIN-NET plans to

¹ Commission Recommendation 98/257/EC on the out-of-court settlement of consumer disputes.

² Directive 2013/11/EU of the European Parliament and of the Council of 21 May 2013 on alternative dispute resolution for consumer disputes.

³ https://ec.europa.eu/info/sites/info/files/memorandum-of-understanding_en.pdf

encourage all notified ADR schemes in the above Member States to join the organisation as soon as possible.

The European Commission launched on 15 February 2016 a new platform to help consumers and traders solve online disputes over a purchase made online. The so-called Online Dispute Resolution (ODR)⁴ platform offers a single point of entry that allows EU consumers and traders to settle their disputes both for domestic and cross-border online purchases. Very few complaints were received via this on-line platform by the FIN-NET members in 2016. This figure is expected to increase in the course of 2017, though.

2016 was not only a year of internal reform for FIN-NET, but also a year for the network's active promotion. The Commission published at the end of 2015 a Green Paper on retail financial services⁵ which queried, inter alia, whether awareness-raising on FIN-NET should be further prioritised. The public consultation ran until 18 March 2016. A large number of respondents, including many individual consumers, wanted to see consumers better informed about the availability of out-of-court settlement schemes.

FIN-NET received also important political backing at the Berlin plenary meeting in September 2016. Two German State Secretaries from the Ministry of Finance and the Ministry of Justice⁶ offered the government's support to FIN-NET in the context of this conference.

For cost-effectiveness reasons, interpretations in five EU languages (DE, EN, ES, FR, IT) were abandoned in 2016. FIN-NET's only working language during plenary meetings is henceforth English.

At the end of 2016, FIN-NET had **59 members** — national ADR schemes — which are listed in Annex 1. In some Member States and EEA countries, ADR schemes do not cover all financial sectors (e.g. banking, payments, insurance, securities) yet. However, consumers in 23 Member States already benefited at the end of 2016 from full-sector coverage. See Annex 2 for a breakdown of coverage in the 26 EEA countries in which FIN-NET was represented at the end of 2016.

The Channel Islands joined FIN-NET in 2015 as an observer and are considered together with the Swiss Banking Ombudsman as FIN-NET affiliates as of 12 May 2016 due to the new operating rules⁷.

Challenges ahead

Despite the network's undisputed success since 2001, FIN-NET still suffers from a lack of awareness amongst many consumers and businesses. The Commission therefore announced in its Action Plan on consumer financial services⁸ in March 2017 also a future FIN-NET awareness-raising campaign.

⁴ Regulation (EU) No 524/2013 of the European Parliament and of the Council of 21 May 2013 on online dispute resolution for consumer disputes.

⁵ Green Paper on retail financial services (COM(2015) 630 final).

⁶ State Secretary Michael Meister from the Ministry of Finance and State Secretary Ulrich Kelber from the Ministry of Justice.

⁷ https://ec.europa.eu/info/sites/info/files/memorandum-of-understanding_en.pdf

⁸ Consumer Financial Services Action Plan (COM(2017) 139 final).

In the follow-up to the Action Plan, the EU's FIN-NET website has been modernised and a FIN-NET promotion video was produced. A social media campaign is also planned. To make this social media campaign as effective as possible, all ADR schemes were invited to upload the video and the link to FIN-NET's EU page onto their national websites.

FIN-NET will also need to further improve its level of coverage and thus plans to reach out to all notified ADR schemes which are not yet members of FIN-NET, particularly in those Member States where FIN-NET is not present to date.

2. MEETINGS IN 2016

2.1. First plenary meeting in 2016

The first plenary meeting was held in Brussels on 22 April 2016.

DG FISMA debriefed the members of the outcome of its public consultation on retail financial services and announced the publication of a summary statement by June. As far as FIN-NET is concerned, a majority of respondents to the consultation saw a need for raising the awareness around the organisation's existence further.

DG FISMA also delivered a technical presentation on the EU's Insurance Distribution Directive (IDD)⁹.

The proposed changes to FIN-NET's Memorandum of Understanding (MoU) were discussed intensively. FIN-NET members used the opportunity to make some final comments prior to the document's finalisation.

DG JUST provided an overview on the Online Dispute Resolution (ODR) Regulation and updated the members on the setting-up process of the on-line platform. A future promotion campaign around the platform was also announced.

DG JUST presented the EU's harmonized methodology on complaints reporting. The collected data feeds into DG JUST's 'consumer scoreboard'. All FIN-NET members were encouraged to follow the complaints reporting methodology in future.

DG FISMA also launched an initial debate on complaints reporting towards the European Supervisory Authorities for their 'Consumer Trends' reports.

2.2. The second plenary meeting in 2016

The second meeting of 2016 took place in Berlin on 30 September and was hosted jointly by Germany's Ombudsman and Arbitration schemes.

The FIN-NET plenary meeting benefited from the patronage of two German State Secretaries and the presence of the president of BAFIN, Germany's financial services supervisory authority.

⁹ Directive (EU) 2016/97 of the European Parliament and of the Council of 20 January 2016 on insurance distribution (recast).

DG FISMA presented a more detailed summary of the results of its public consultation on retail financial services and announced further follow-up via an Action Plan, including a possible awareness raising campaign on FIN-NET.

DG FISMA tested with members the waters for the campaign, including a possible promotion video and website adaptations. This was followed by an in-depth discussion. The FIN-NET members globally supported the idea of an awareness raising campaign, but also pointed to a number of potential challenges ahead.

A discussion took place on first experiences with the ADR and ODR frameworks.

FIN-NET members also discussed in the presence of an academic specialised in ADR research the pros and cons of consumer satisfaction surveys.

The FIN-NET community welcomed two new members¹⁰ to its organisation. The UK representative debriefed members how her organisation approaches vulnerable consumers, and the Spanish representative launched a discussion on the national approaches to dormant bank accounts.

3. FIN-NET'S OUTPUT IN 2016

3.1. Statistics

Year	Total number of cross-border cases handled by FIN-NET members	Cross-border cases by sectors			
		Banking	Insurance	Investments	Other
2016	2571	1202	592	514	160

FIN-NET members reported that they handled 2571 cross-border cases in 2016, of which 1202 were in the banking sector, 592 in the insurance sector, and 514 in the investment sector. 160 cases were attributed to the category 'others'. 45¹¹ out of 59 FIN-NET members participated in this year's statistical reporting exercise.

Examples of cross-border cases

The following three case descriptions exemplify how FIN-NET contributed in 2016 to solve cross-border disputes in the retail financial services area.

Case 1:

A UK citizen had a holiday booked for four days in a foreign city. Prior to leaving, he had purchased a travel insurance policy online with an Irish insurance company. On arriving at his destination with his wife, the UK citizen suffered a very serious medical

¹⁰ Austria's Schlichtung für Verbrauchergeschäfte and Slovakia's Banking Ombudsman of the Slovak Banking Association.

¹¹ As the number of the reporting schemes varies over the years, no consistent and comparable time series can be established.

incident, which required hospitalization. He was in intensive care for three days of the four days and was discharged on the fourth day. He and his wife remained in the city and availed of a hotel on the fourth night. After their return, they put a claim into his insurance company, who agreed to meet the hospital bills. However, the insurance company refused to reimburse the cost of the holiday as they argued his trip was not curtailed and therefore, did not come under the definition of curtailment¹². The complaint was mediated by the *Irish Financial Services Ombudsman*, who engaged with the UK citizen and the insurance company in order to facilitate a resolution. The Irish Financial Services Ombudsman asked the insurance company to consider whether technically, the trip was curtailed due to the fact that the UK citizen did not avail of his holiday as planned (i.e. he was in hospital rather than touring the foreign city). The insurance company subsequently changed its position and agreed to make a payment for three of the four days (the fourth day, the he did check into a hotel and therefore, could have availed of his holiday). The UK citizen agreed to the Company's offer and the complaint was resolved by agreement.

Case 2:

A German consumer contacted the *UK's Financial Ombudsman Service* directly to complain about her current account with a British bank. The consumer was unhappy that she had not received a passcode for telephone banking and wasn't able to make a cash transfer to her family in Canada before the currency exchange rate dropped further. After having been contacted by the UK Financial Ombudsman Service, the bank finally provided the passport to the German citizen and also compensated her for the inconvenience the delay had caused.

Case 3:

A Greek citizen, who resides in the UK, attempted a cash machine withdrawal at a shopping mall in London using her Debit card issued by a Greek Bank. Although she was not given the cash, her account was debited with the amount. She initially contacted the Financial Ombudsman Service in the UK and was then re-directed to the *Hellenic Ombudsman of Banking – Investment Services (H.O.B.I.S)*. The bank, following H.O.B.I.S' intervention, credited the entire amount back to her bank account.

¹² "Cancellation, Curtailment and Rearrangement Costs: costs for unused travel and/or accommodation which the Person(s) Insured has paid or is contracted to pay and which cannot be recovered from any other source. Curtailment and Rearrangement Costs include reasonable additional travel and accommodation expenses provided that:

- a) such travel is of a standard no greater than the class of transport on the outbound journey; and
- b) the standard of accommodation is not superior to that of the Trip."

ANNEX 1 — MEMBERS OF FIN-NET

Members of FIN-NET (* new members that joined in 2016 listing in the order of protocol)

Belgium

- 1 Ombudsman des Assurances / Ombudsman van de Verzekeringen
Insurance Ombudsman
- 2 Ombudfin

Czech Republic

- 3 Finanční arbitr České republiky
Financial Arbiter of the Czech Republic

Denmark

- 4 Pengeinstitutankenævnet
Danish Complaint Board of Banking Services
- 5 Realkreditankenævnet
Danish Mortgage Credit Complaint Board
- 6 Ankenævnet for Forsikring
Danish Insurance Complaints Board
- 7 Ankenævnet for Fondsmæglerselskaber
Complaint Board of Danish Securities and Brokering Companies
- 8 Ankenævnet for Investeringsfonde
Danish Complaint Board of Investment Funds

Germany

- 9 Ombudsstelle für Investmentfonds
Ombudsman Scheme for Investment Funds
- 10 Schlichtungsstelle bei der Bundesanstalt für Finanzdienstleistungsaufsicht
(BaFin)
Arbitration Board at BaFin
- 11 Schlichtungsstelle bei der Deutschen Bundesbank
Arbitration Board at the Deutsche Bundesbank
- 12 Ombudsmann der privaten Banken
Ombudsman Scheme of the Private Commercial Banks
- 13 Deutscher Sparkassen- und Giroverband (DSGV)
German Savings Banks Association

- 14 Verband der Privaten Bausparkassen e.V. – Schlichtungsstelle Bausparen
Association of Private Bausparkassen – Arbitration Board
- 15 Ombudsmann der deutschen genossenschaftlichen Bankengruppe (BVR)
Ombudsman of German Cooperative Banks
- 16 Ombudsmann der öffentlichen Banken Deutschlands (VÖB)
Ombudsman of German Public Sector Banks
- 17 Ombudsmann private Kranken- und Pflegeversicherung
Ombudsman Private Health and Long-term Care Insurance
- 18 Versicherungsombudsmann e.V.
Insurance Ombudsman
- 19 Ombudsstelle für Sachwerte und Investmentvermögen e.V.
Real Asset Investment Arbitration Board

Estonia

- 20 Tarbijavaidluste Komisjon
Consumer Disputes Committee

Ireland

- 21 Biúró an Ombudsman um Sheirbhísí Airgeadais
Financial Services Ombudsman's Bureau

Greece

- 22 Μεσολαβητής Τραπεζικών – Επενδυτικών Υπηρεσιών (Μ.Τ.Ε.Υ.)
Hellenic Ombudsman for Banking – Investment Services (H.O.B.I.S.)

Spain

- 23 Departamento de Conducta de Mercado y Reclamaciones (Banco de España)
Market Conduct and Claims Department (Banco de España)
- 24 Oficina de Atención al Inversor - Dirección de Inversores de la CNMV
Investor Assistance Office – Investors Division of the CNMV
- 25 Servicio de Reclamaciones de la Dirección General de Seguros y Fondos de Pensiones (DGSFP)
Complaints Service of the Directorate-General of Insurance and Pension Funds

France

- 26 Médiateur de l'Autorité des Marchés Financiers (AMF)
AMF Ombudsman
- 27 Le Médiateur de l'Assurance
Insurance Mediator

- 28 Médiateur de l'Association française des Sociétés Financières (ASF)
Mediator of the French Association of Specialised Finance Companies

Croatia

- 29 Centar za mirenje pri Hrvatskom uredu za osiguranje
Mediation Centre at the Croatian Insurance Bureau
- 30 Centar za mirenje pri Hrvatskoj Gospodarskoj Komori
Mediation Centre at the Croatian Chamber of Economy

Iceland

- 31 Úrskurðarnefnd í váttryggingamálum
Insurance Complaints Committee
- 32 Úrskurðarnefnd um viðskipti við fjármálafyrirtæki
The Complaints Committee on Transactions with Financial Firms

Italy

- 33 Arbitro Bancario Finanziario (ABF)
ABF – Banking and Financial Ombudsman
- 34 Conciliatore Bancario Finanziario
Banking Ombudsman
- 35 Istituto per la Vigilanza sulle Assicurazioni (IVASS)
IVASS – Insurance Supervisory Authority

Liechtenstein

- 36 Schlichtungsstelle zur Beilegung von Streitigkeiten bei der Ausführung von
Überweisungen
*Arbitration Board for the Settlement of Disputes concerning Cross-border Credit
Transfers*
- 37 Liechtensteinischer Bankenombudsmann
Bank Ombudsman

Lithuania

- 38 Valstybinė vartotojų teisių apsaugos taryba/Lietuvos bankas
State Consumer Rights Protection Authority/Central Bank of Lithuania

Luxembourg

- 39 Médiateur en Assurances
Insurance Mediator
- 40 Commission de Surveillance du Secteur Financier (CSSF)

Hungary

41 Budapesti Békéltető Testület
Arbitration Board of Budapest

42 Pénzügyi Békéltető Testület (PBT)
Financial Arbitration Board (FAB)

Malta

43 ‘Manager’ Għall-Ilmenti tal-Konsumatur, Awtorità għas-Servizzi Finanzjarji ta’ Malta
Consumer Complaints Manager, Malta Financial Services Authority (MFSA)

Netherlands

44 Klachteninstituut Financiële Dienstverlening (Kifid)
Financial Services Complaints Institute (Kifid)

Norway

45 Finansklagenemnda (FinKN)
Norwegian Financial Services Complaints Board

Austria

46 Gemeinsame Schlichtungsstelle der österreichischen Kreditwirtschaft
Joint Conciliation Board of the Austrian Banking Industry

47 *Schlichtung für Verbrauchergeschäfte (*)*
Arbitration Board for Consumer Businesses

Poland

48 Rzecznik Finansowy
Financial Ombudsman

49 Bankowy Arbitraz Konsumentki (Związek Banków Polskich)
Banking Ombudsman (Polish Bank Association)

50 Sąd Polubowny przy Komisji Nadzoru Finansowego
Arbitration Court at the Polish Financial Supervision Authority

Portugal

51 Centro de Arbitragem de Conflitos de Consumo de Lisboa
Lisbon Arbitration Centre for Consumer Conflicts

52 CMVM - Comissão do Mercado de Valores Mobiliários
CMVM - Portuguese Securities Market Commission

Slovakia

- 53 Bankový ombudsman Slovenskej bankovej asociácie (SBA) (*)
Banking ombudsman of Slovak banking association (SBA)

Finland

- 54 Kuluttajariitalautakunta
Consumer Disputes Board
- 55 Pankkilautakunta – secretariat c/o Vakuutus- ja rahoitusneuvonta
Finnish Banking Complaints Board c/o Finnish Financial Ombudsman Bureau
- 56 Arvopaperilautakunta – secretariat c/o Vakuutus- ja rahoitusneuvonta
Finnish Securities Complaints Board c/o Finnish Financial Ombudsman Bureau
- 57 Vakuutuslautakunta – secretariat c/o Vakuutus- ja rahoitusneuvonta
Finnish Insurance Complaints Board c/o Finnish Financial Ombudsman Bureau

Sweden

- 58 Allmänna reklamationsnämnden (ARN)
National Board for Consumer Disputes

United Kingdom

- 59 Financial Ombudsman Service

Annex 2 — Coverage of the financial sector by FIN-NET members

Country	Banking	Payments	Insurance	Investments
Austria	FIN-NET	FIN-NET	FIN-NET	FIN-NET
Belgium	FIN-NET	FIN-NET	FIN-NET	FIN-NET
Bulgaria				
Czech Republic	FIN-NET	FIN-NET	FIN-NET(*)	FIN-NET
Cyprus				
Denmark	FIN-NET	FIN-NET	FIN-NET	FIN-NET
Estonia	FIN-NET	FIN-NET	FIN-NET	FIN-NET
Finland	FIN-NET	FIN-NET	FIN-NET	FIN-NET
France	FIN-NET	FIN-NET	FIN-NET	FIN-NET
Croatia	FIN-NET	FIN-NET	FIN-NET	FIN-NET
Germany	FIN-NET	FIN-NET	FIN-NET	FIN-NET
Greece	FIN-NET	FIN-NET		FIN-NET
Hungary	FIN-NET	FIN-NET	FIN-NET	FIN-NET
Iceland	FIN-NET	FIN-NET	FIN-NET	FIN-NET
Ireland	FIN-NET	FIN-NET	FIN-NET	FIN-NET
Italy	FIN-NET	FIN-NET	FIN-NET	FIN-NET
Latvia				
Liechtenstein	FIN-NET	FIN-NET		FIN-NET
Lithuania	FIN-NET	FIN-NET	FIN-NET	FIN-NET
Luxembourg	FIN-NET	FIN-NET	FIN-NET	FIN-NET
Malta	FIN-NET	FIN-NET	FIN-NET	FIN-NET
Netherlands	FIN-NET	FIN-NET	FIN-NET	FIN-NET
Norway	FIN-NET	FIN-NET	FIN-NET	FIN-NET
Poland	FIN-NET	FIN-NET	FIN-NET	FIN-NET
Portugal	FIN-NET	FIN-NET	FIN-NET	FIN-NET
Romania				
Slovenia				
Slovakia	FIN-NET	FIN-NET		FIN-NET
Spain	FIN-NET	FIN-NET	FIN-NET	FIN-NET
Sweden	FIN-NET	FIN-NET	FIN-NET	FIN-NET
United Kingdom	FIN-NET	FIN-NET	FIN-NET	FIN-NET

(*) life insurance only