



Financial Arbitrator

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Complainant



Institution

Global Travel, spol. s r.o.
ID (IČO) 005 52 241
Palackého 715/15
11000 Prague 1

Register number FA/SR/SM/1123/2017 - 3

Prague 21st March 2018

Award

In the proceedings commenced on 3rd November 2017 under Sec. 8 of the Act No. 229/2002 Coll., on Financial Arbitrator, as amended (hereinafter referred to as „the Financial Arbitrator Act“) by the Complainant against the Institution in the matter of reimbursement of 92 euros or 2,319.32 Czech Korunas, held pursuant to the Financial Arbitrator Act and, as stipulated by Sec. 24 of the Financial Arbitrator Act, adequately pursuant to the Act No. 500/2004 Coll., Administrative Procedure Code, as amended (hereinafter referred to as „the Administrative Procedure Code“), the Financial Arbitrator authorized to decide disputes under Sec. 1 Par. 1 of the Financial Arbitrator Act decided as follows:

According to Sec. 15 Par. 1 of the Financial Arbitrator Act the complaint is hereby dismissed.

Reasoning :

1 Subject of the dispute and the competence of the Financial Arbitrator to decide the dispute

By filing the complaint the Complainant seeks partial reimbursement of the exchange fee, specifically 92 euros or 2,319.32 Czech Korunas.

According to Sec. 2 Par. 1 of the Act No. 277/2013 Coll., on money exchanges, as amended (hereinafter referred to as “the Money Exchanges Act”) the money exchange shall mean *“a transaction consisting in exchange of banknotes, coins or cheques denominated in one currency for banknotes, coins or cheques denominated in a different currency”*.

Pursuant to Sec. 1 Par 1 letter f) of the Financial Arbitrator Act, the Financial Arbitrator is authorized, inter alia, to decide disputes between the consumer and money exchange provider arisen in connection with the money exchange.

Based on the unanimous contentions of the parties and the evidence presented, the Financial Arbitrator found out that a money exchange of 400 euros to Czech Korunas took place on 26th October 2017 inside its branch office at Na Poříčí 1070/19, 110 00 Prague 1 (hereinafter referred to as “the Branch Office”). The Financial Arbitrator therefore considers proven that a money exchange in the sense of Sec. 2 Par. 1 of the Money Exchanges Act took place between the Complainant and the Institution.

The Financial Arbitrator has not found out that the Complainant would act other than as a consumer in the course of the disputed money exchange, i.e. as an individual who, outside



his trade, business or profession, enters into a contract or has other dealings with an entrepreneur. Consequently, the Financial Arbitrator considers the Complainant to be a consumer in the sense of Par. 3 Sec. 2 of the Financial Arbitrator Act and Par. 419 of the Act No. 89/2012 Coll., Civil Code, as amended (hereinafter referred to as “the Civil Code”). Accordingly, the Complainant is a consumer in the sense of Sec. 1 Par 1 letter f) of the Financial Arbitrator Act.

The Institution is incorporated in the Registry of the Exchange Offices and is therefore an exchange office in the sense of Sec. 4 of the Money Exchanges Act (a person entitled to provide money exchanges based on a licence to act as an exchange office granted by the Czech National Bank), as well as a money exchange provider in the sense of Sec. 3 Par. 1 letter f) of the Financial Arbitrator Act listing the institutions against which a complaint may be filed in the proceedings before the Financial Arbitrator.

The Financial Arbitrator is authorized to decide the dispute in question as a dispute between the consumer and money exchange provider arisen in connection with the money exchange [Sec. 1 Par. 1. letter f) and Sec. 3 Par. 1 and 2 of the Financial Arbitrator Act] is concerned, and at the same time there is an authority of the Czech court to decide the dispute pursuant to Art. 4 Par. 1 of the Regulation (EU) No. 1215/2012 of the European Parliament and of the Council of 12th December 2012 on jurisdiction and the recognition and enforcement of judgments in civil and commercial matters.

4 Contentions of the Complainant

The Complainant describes the Branch Office so that *“[a]s a tourist you will find the currency exchange in the middle of the shopping street as a serious institution. Because of the shopping street but you cannot pay close attention to the external effect. You're in it, so to speak. Inside, a billboard is hung with the exchange rates. I could not find any indication of a change fee. For me, the crucial point was the advertising inside, mutatis mutandis: "In cooperation with UniCredit." Yes, the big bank, I thought. That fits.”*

The Complainant continues that *“[t]he exchange rate list is very dominant in the small space and attracts the full attention. There are normal buying and selling courses that do not deviate from the norm, but where one recognizes that the currency exchange alone already makes good money.”*

The Complainant asserts that on the exchange rate board *“[a]dditional fees are visibly not recognizable. However, no indication that there are none. Due to the very serious business I did not ask for fees. This is also due to lack of language skills on my part – included english.”*

The Complainant further asserts that he *“received the note directly at or very shortly after the payment of the last crowns for signature. Since I only got it directly afterwards, I also signed it because I had just got my money, I would not have signed before. But that did not allow me to skip over the amounts with mental arithmetic. Unfortunately, I checked the note until the evening in the hotel and discovered the high service charge”* and that *“[t]he information about the Payment I received after the equivalent amount was paid. The printer printed the receipt as long as possible. The document was folded several times to sign.”*

The Complainant argues that *“a fee of 28%, about 112 euros, is not correct”* and therefore seeks partial reimbursement of the exchange fee.



6 Contentions of the Institution

The Institution asserts that the Complainant *“was duly instructed in relation to the exchange and was provided comprehensive pre-contractual information.”*

The Institution describes that *“[t]he transaction was implemented by the complainant asking for exchange of Euro banknotes which he immediately placed in the tray at the counter. In reply to the question as to whether this was the final amount he wished to exchange, the claimant replied that it was and there was nothing left for the employee at the bureau de change to do than to take the money and count it. She entered the amount and the currency into the information system in order to ascertain the equivalent value (determination of the equivalent value is performed by the information software in order to rule out errors in conversion using a calculator). First of all, pre-contractual information was provided and the level of the equivalent value was communicated. The complainant read the pre-contractual information, familiarised himself with its content and signed acceptance of this. The employee at the bureau de change again showed him the equivalent value on the screen where it is displayed. Only then was the equivalent value paid out to him. The complainant subsequently left the premises of the bureau de change and did not contact the Institution.*

The Institution further describes that the Complainant contacted the Institution *“the following day 12.11.2017 using electronic means that he had submitted a complaint to the Czech Financial Arbitrator, who recommended he deal with us. In reply to this, he was only informed that we so far know of no complaint having been submitted.”*

The Institution asserts that *“[d]uring the course of the transaction, another man was present, accompanying the complainant, who was not involved in the transaction in any way. The premises are sufficiently equipped with audio and lighting equipment and in addition to this, the transaction was implemented in daylight. When the customer leaves the premises of the bureau de change, the transaction is regarded as completed.”*

The Institution *“regards acceptance of the equivalent paid out to the client and the client leaving the area of the counter tray as completion of the exchange; before this completion of the exchange, the client can at any time refuse implementation of the transaction and request return of their cash; in such a case, the employee is obliged to accommodate the client’s request; once the exchange has been completed, the employee does not have this automatic obligation and the client is entitled to make a standard claim regarding the exchange.”*

7 Amicable settlement of the dispute

In accordance with Sec. 1 Par. 3 of the Financial Arbitrator Act, the Financial Arbitrator requested the parties to the dispute to settle the dispute amicably. The Complainant proposed: *“If I get a refundable service fee of € 92, the dispute can be settled.”* The Institution did not respond to the proposed amicable settlement of the dispute. Consequently, the Financial Arbitrator was not able to assist the parties to settle the dispute amicably.

8 Reasoning

According to Sec. 12 Par. 1 of the Financial Arbitrator Act, the Financial Arbitrator shall decide disputes based upon her/his best knowledge and belief, impartially, fairly, without undue delay and only on the basis of the facts established in accordance with the Financial Arbitrator Act and other legislation. Pursuant to Sec. 12 Par. 3 of the Financial Arbitrator Act, the Financial Arbitrator shall not be bound by the complaint and shall procure evidence on



his/her own; the Financial Arbitrator shall make decisions based on the established facts of the case and shall weigh evidence in her/his discretion.

The Financial Arbitrator decides cases according to the relevant written law and weighs any of the collected evidence individually as well as contextually and with regard to the merit of the case. If possible, the Financial Arbitrator draws from and refers to the constant judicial practice of the ordinary courts as well as the Constitutional Court. The main focus of the Financial Arbitrator being factual and legal accuracy as the award may be a subject of judicial review to a motion of both parties to the proceedings so the award could be confirmed by the court and the motion dismissed.

In the case at hand, the Financial Arbitrator shall decide if the Institution shall reimburse 92 euros or 2,319.32 Czech Korunas to the Complainant as a sought fraction of the exchange fee charged for carrying out the money exchange because the money exchange of 400 euros to Czech Korunas on 26th October 2017 in the Branch Office (hereinafter referred to as “the Disputed Money Exchange”) constitutes invalid legal act.

8.1 Facts of the case

The Financial Arbitrator has established the following facts of the case:

1. on 26th October 2017 the Complainant and the Institution performed the Disputed Money Exchange, i.e. the money exchange of 400 euros to Czech Korunas in the Branch Office; that follows from the unanimous contentions of the parties, the CCTV record of the Disputed Money Exchange (hereinafter referred to as “the Record”), the pre-contractual information sheet of the the Disputed Money Exchange (hereinafter referred to as “the Pre-contractual Information Sheet”) and the Disputed Money Exchange receipt (hereinafter referred to as “the Receipt”);
2. the exchange rate was 25.21, the exchange fee was 2,823.52 Czech Korunas and the exchanged amount paid out to the Complainant was 7,260 Czech Korunas; that follows from the unanimous contentions of the parties, the Record, the Pre-contractual information sheet and the Receipt.

The relevant statute regarding the money exchanges is the Money Exchanges Act. If there is no relevant provision of the Money Exchanges Act, the Civil Code shall be applied as a general statute regarding civil law contract obligations.

8.2 Validity of the Disputed Money Exchange as a preliminary question

According to Sec. 586 Par. 2 of the Civil Code “*[u]nless an entitled person invokes invalidity of a juridical act, the juridical act is considered valid.*”

As the Complainant does not contest the validity of the Disputed Money Exchange as a whole, the Financial Arbitrator is limited to examine the preliminary question of the validity of the Disputed Money Exchange solely on the grounds of Sec. 588 of the Civil Code.

Pursuant to Sec. 588 of the Civil Code “*[t]he court shall find invalid, even without a motion to that effect, any legal act that clearly breaches the good morals, or breaches the law and clearly disrupts public order. The same applies where an unfeasible performance (i.e. unfeasible from the very beginning) is required by the legal act.*”

As the exchange of two existing currencies (euros and Czech Korunas) cannot be deemed as a legal act with an unfeasible performance, to make the decision the Financial Arbitrator dealt with the following issues:

1. whether the Disputed Money Exchange breaches the law and clearly disrupts public



- order;
2. whether the Disputed Money Exchange clearly breaches the good morals.

8.2.1 Breach of the law and disruption of public order

The main objection of the Complainant is that charging the money exchange fee as such breaches the law hence he has the right for its reimbursement.

To understand the issue of the exchange fee it is necessary to think of the money exchanges as of trading any other goods for money in situation where such goods are not fabricated by the trader. If the trader needs to buy some goods before he/she sells it to the customers, he/she needs to sell it for higher price than for which he/she bought it at first place to make any profit. In other words if the money exchange provider buys foreign currency for Czech currency (which needs to be considered the “starting” currency for the Czech provider) the provider needs to sell it for higher price than he/she bought it in order to make a profit.

The Financial Arbitrator stresses out, at this point, that the exchange offices are private traders not supported or financed by the government. To be able to trade in foreign currencies, they need to be granted a licence by the Czech National Bank and comply with the requirements imposed by the Money Exchanges Act and other applicable law; however the money exchanges constitute their source of profit. Moreover, there is no legislation that would require the exchange offices to have their exchange rates bound in any way by the official exchange rates published by the Czech National Bank, or would limit the range between the “sell” and “buy” exchange rate.

The profit the exchange offices make can be determined by an exchange rate (the exchange office buys the foreign currency cheaper than it subsequently sells it to the customers), the money exchange fee (the money exchange office imposes a fee on every money exchange), or a combination thereof (as in this particular case).

At the same time, the determination of the exchange rates and the fee is fully in the discretion of the individual exchange office and is, therefore, influenced by many circumstances (e.g. the rental prices and other charges in the location of the exchange office and/or its branch offices, number of employees, common exchange rates in the area, etc.) Naturally, the exchange rates may also change every day.

Charging the exchange fee as such does not breach the law.

However, charging the exchange fee may occur under such circumstances so the Disputed Money Exchange could in fact constitute invalid legal act.

Firstly, the Financial Arbitrator had to examine whether the Institution violated any law concerning the Disputed Money Exchange, i.e. its information duties toward the Complainant.

Being the critical statute, the Money Exchanges Act focuses on ensuring that the customer gets enough information before the money exchange takes place to make a qualified decision whether to make the money exchange under the conditions offered by the Institution or not. In other words, the Money Exchanges Act lays down specific information obligations on the exchange offices to make sure that the customers are not actually misled by them regarding decisive circumstances of the money exchange. It follows from the Money Exchanges Act that if the exchange office complies with its requirements the customer shall not actually be misled as he/she has been provided with all the information to be able to avoid any mistake.



The Financial Arbitrator dealt with the following issues:

- a) whether the Institution displayed the exchange rates list in the Branch Office on 26th October 2017 as required by Sec. 11 Par. 1 of the Money Exchanges Act;
- b) whether the exchange rates list contained all the information prescribed by Sec. 11 Par. 2 of the Money Exchanges Act;
- c) whether such information was displayed on the exchange rates list in the manner prescribed by Sec. 11 Par. 3 of the Money Exchanges Act;
- d) whether the Institution complied with its obligation to provide the Complainant, sufficiently in advance and in accordance with Sec. 13 Par. 1 of the Money Exchanges Act, with the information prescribed by Sec. 13 Par. 2 of the Money Exchanges Act.

Ad a) to c)

Pursuant to Sec. 11 Par. 1 of the Money Exchanges Act “[t]he Provider (i.e. the person entitled to perform the money exchanges – comment of the Financial Arbitrator) shall publish the exchange rates list in the business place (i.e. in the place where the money exchanges are being performed, in this case in the Branch Office – comment of the Financial Arbitrator).“

According to Sec. 11 Par. 2 of the Money Exchanges Act the exchange rates list shall include: „a) a designation showing that an exchange rates list is concerned, b) trade name, or company name, or name/s and surname/s of the merchant and its identification number, c) names or other designations of the currencies between which the money exchange shall take place, d) information on the money exchange rates to be used for calculation of the money exchange which are the least advantageous for the person interested in the money exchange (hereinafter referred to as “the Interested”), and e) information on the money exchange fee“.

Pursuant to Sec. 11 Par. 3 of the Money Exchanges Act “[t]he data displayed on the exchange rates list shall be given in the appropriate size and in the exact and comprehensible manner. Numbers shall be written in Arabic numerals.“

The Institution has submitted the exchange rates list of 26th October 2017 as well as the photographs showing where the exchange rates list is located in the Branch Office. Based on the evidence the Financial Arbitrator has found out that:

1. the exchange rates list is located on the wall next to the counter in the Branch Office and its position enables the customer to approach close to it;
2. the exchange rate list is displayed on a light board measuring 50 x 88.5 cm, 40 inches in diagonal, height of the letters is approximately 1 cm;
3. on the top of the exchange rates list the following data were displayed on 26th October 2017: the logo read as “KURZOVNÍ LÍSTEK”; “EXCHANGE RATES LIST”; “INTERCHANGE”; “GLOBAL TRAVEL SPOL S R.O., IČO/REG. 00552241“ and “Datum /date: 26.10.2017“;
4. under the above mentioned data the screen was vertically divided into two parts further divided into 6 columns, the left part’s common heading was “PRODÁVÁME VALUTY/WE SELL FOREIGN”, the right part’s common heading was “NAKUPUJEME VALUTY/WE BUY FOREIGN“;
5. in the 5th column on the left side and in the 3rd column on the right side the abbreviations of the currencies were enumerated starting with “EUR” and ending with “ZAR”, 28 in total;
6. in the 2nd column on the left side and in the 6th column on the right side the rates were displayed for the relevant exchange, in concrete for euros the “sell” exchange rate was 25.73 and the “buy” exchange rate was 25.21;



7. under the list of the exchange rates was displayed a separate part dedicated to fees stating: *“Poplatek pro výměnu z valut na CZK je 28 %”, “Commission for exchange from foreign currency to CZK is 28 %”, “Poplatek pro výměnu z CZK na valuty je 2,7%”, “Commission for exchange from CZK to foreign currency is 2,7%” a “Poplatek pro transakce s platební kartou je 13%”, “Commission for with payment card is 13%”;*
8. under the part dedicated to fees was displayed a separate part dedicated to conditions of more advantageous individual exchange rates stating: *“Společnost může s klientem před transakcí dohodnout individuální podmínky směny ve prospěch klienta“, „The company may agree with the customer individual terms of exchange prior to the transaction in favor of the customer.“*

The Financial Arbitrator considers proven that the following information prescribed by Sec. 11 Par. 2 of the Money Exchanges Act was displayed at the exchange rate list: the trade name (*“INTERCHANGE”*), the company name (*“GLOBAL TRAVEL SPOL S R.O.”*), the identification number (*“IČO/REG. 00552241”*), the designations of the currencies between which the money exchange shall take place (e.g. *“PRODÁVÁME VALUTY/WE SELL FOREIGN”, “CZK→EUR” a “NAKUPUJEME VALUTY/WE BUY FOREIGN”, “EUR→CZK”*), information on the money exchange rates (the “sell” exchange rate for euros of 25.73 and the “buy” exchange rate for euros of 25.21) and the information on the money exchange fee (*“Poplatek pro výměnu z valut na CZK je 28 %”, “Commission for exchange from foreign currency to CZK is 28 %”, “Poplatek pro výměnu z CZK na valuty je 2,7%”, “Commission for exchange from CZK to foreign currency is 2,7%” a “Poplatek pro transakce s platební kartou je 13%”, “Commission for with payment card is 13%”*).

Also, the Financial Arbitrator considers proven that the data displayed on the exchange rates list were given in the appropriate size. It was provided on the light board measuring 50 x 88.5 cm, 40 inches in diagonal, the letters approximately 1 cm high. The letters and numbers on the light board are black coloured on dark and light background.

Taking into account that the location of the exchange rates list enabled the customers to approach close to it (to step right in front of it in fact, as did the Complainant according to the Record), the Financial Arbitrator considers the size of the data displayed appropriate. Moreover, the Complainant never asserted that he would not be able to check the money exchange fee due to a small font used for the exchange rates list, or that he would not understand it for any other reason.

In addition, all the numbers were given in Arabic numerals and the way the data were displayed on the exchange rates list could not cause any confusion (if the client was exchanging foreign currency to Czech Korunas the fee was 28 %, if he/she used a credit card the fee was 13 % and if he/she was exchanging Korunas to foreign currency the fee was 2.7 %).

Ad d)

Furthermore, pursuant to Sec. 13 Par. 1 of the Money Exchanges Act *„[t]he Provider shall communicate to the Interested, sufficiently in advance before entering into the money exchange, information specified in Paragraph 2. Such information shall be communicated to the Interested in textual form, in the exact and comprehensive manner and at least in the Czech and English language.*

Pursuant to Sec. 13 Par. 2 of the Money Exchanges Act *„[t]he Interested shall be, in accordance with Paragraph 1, provided with the following information on*

a) *the Provider*

1. *trade name, or company name, or name/s and surname/s,*



2. *address of the seat and address of the business place where the contract is being concluded, or another address, including the electronic one, that is important for the communication of the Interested with the Provider, and*
3. *identification number,*
- b) *the money exchange*
 1. *names or other designations of the currencies between which the money exchange shall take place,*
 2. *amount of money to be presented by the Interested,*
 3. *exchange rate,*
 4. *amount of money that corresponds to the amount of money presented by the Interested for money exchange after conversion made using the exchange rate,*
 5. *money exchange fee,*
 6. *amount of money to be presented to the Interested after conversion, if different from the amount of money under point 4, and*
 7. *date and time of presentation of the information, and*
- c) *other rights of the Interested*
 1. *information on the right of the Interested to file a complaint with the supervising body, and*
 2. *information on the right of the Interested to file a complaint with an out-of-court decision-making body deciding disputes between the Interested and the Provider and the name and the address of the seat of such body.*

The Pre-contractual Information Sheet contains the following data:

1. *"Global Travel, s.r.o." (i.e. the company name of the Institution);*
2. *"IC / company ID: 28205189" (i.e. the identification number of the Institution);*
3. *"Sidlo / Head office: Palackeho 15, Praha 1, 1.patro/1st floor CR / Czech Republic" (i.e. the address of the seat of the Institution);*
4. *"Adresa provozovny / Place of business: Na porici 1070/19, 110 00 Praha 1" (i.e. the address of the business place – the Branch Office);*
5. *"info@interchange.cz" (i.e. the email address of the Institution);*
6. *"Zakaznik ma pravo podat stiznost Ceske narodni bance sidlici na adrese na Prikopech 28, Praha 1 Ceska Republika. Zakaznik ma pravo podat navrh na mimosoudni reseni Financnimu arbitru CR sidlici na adrese Legerova 1581/69, Praha 1, Ceska republika. The Customer has the right to complain to the Czech National Bank located at Na Prikopech 28, Prague 1, Czech Republic. The Customer has the right to file a motion for extrajudicial resolution to the Financial Arbiter CR at Legerova 1581/69, Prague 1, Czech Rep." (i.e. the information on the right of the Complainant to file a complaint with the supervising body – Czech National Bank – and the name and the address of its seat and information on the right of the Complainant to file a complaint with the out-of-court decision-making body deciding disputes between the Complainant and the Institution – the Financial Arbitrator – and the name and the address of its seat);*
7. *"Datum/date (dd-mm-yyyy): 26.10.2017" (i.e. the date of presentation of the information);*
8. *"Cas/time(24h format): 14:23:52" (i.e. the time of presentation of the information);*
9. *"Predmetem obchodu je smena men/Subject of this trade is exchange of currencies.";*
10. *"EUR→CZK" (i.e. designations of the currencies between which the money exchange took place);*
11. *"Castka slozena klientem / Amount paid in by Customer. 400 EUR BN" (i.e. the amount of money presented by the Complainant);*
12. *"Smenny kurz transakce: Exchange rate of the transaction: 1 EUR BN = 25,210 CZK" (i.e. the exchange rate);*
13. *"Ekvivalentni kurzovni hodnota: Convertet rate equivalent: 400 EUR BN = 10 084 CZK" (i.e. amount of money that corresponds to the amount of money presented by the Interested for money exchange after conversion made using the exchange rate);*



14. *“Servisni poplatek z kurzovni hodnoty: Service charge of rate value: 28,000 % 2823,52 CZK”* (i.e. the money exchange fee);
15. *“Konecna castka ekvivalentu k vyplaceni: Final equivalent amount to pay to the Customer: 7 260 CZK”* (i.e. the amount of money to be presented to the Interested after conversion and subtracting the money exchange fee);
16. *“Prijato celkem od klienta: Total accepted from Customer: 400 EUR BN”* (i.e. the amount of money presented by the Complainant);
17. *“Celkova konecna castka ekvivalentu k vyplaceni: Total final equivalent amount to pay to the Customer: 7 260 CZK”* (i.e. the amount of money to be presented to the Interested after conversion and subtracting the money exchange fee);
18. *“Ja, nize podepsany klient, stvrzuji svym podpisem, ze vyse uvedene informace jsem obdrzel pred ukoncenim transakce, tedy pred vyplacenim a prevzetim konecne protihodnoty. I, the undersigned Customer, confirm by signing below that the information written above was received before the end of the transaction, which means before the final equivalent was paid to me and before takeover.”*

The Complainant presented the amount of 400 euros to the Institution. Given that the exchange rate was 25.21 the fee was calculated of the amount of 10.084 Czech Korunas (i.e. the amount of money that corresponds to the amount of money presented by the Interested for money exchange after conversion made using the exchange rate). In this case, 28 % of 10.084 Czech Korunas is 2,823.52 Czech Korunas. As the cash only exist in full Czech Korunas, the amount of 2,823.52 Czech Korunas had to be rounded to 2,824 Czech Korunas.

The Complainant objected that he received and signed the Pre-contractual Information Sheet only after the transaction was over (*“directly at or very shortly after the payment of the last crowns for signature. Since I only got it directly afterwards, I also signed it because I had just got my money, I would not have signed before”*).

The Institution denied this assertion of the Complainant and objected that according to Article 4 of the internal guidelines governing money exchanges the pre-contractual information sheet shall be provided to the client before the actual performance of the money exchange.

Furthermore, the Institution presented the Record, from which follows that the Complainant first inserted 400 euros behind the counter, than the employee of the Institution (hereinafter referred to as “the Employee”) handed the Pre-contractual Information Sheet over to the Complainant. Therefore the Financial arbitrator cannot assent to the Complainant's objection that he *“received the note directly at or very shortly after the payment of the last crowns for signature.”*

From the Record follows that the Pre-contractual Information Sheet was not folded or there were some other obstacle to read its content properly. That means that also the Complainant's objection that *“[t]he document was folded several times to sign”* has been proven false.

On the contrary, the Financial arbitrator cannot sustain the Institution's objection that *“[t]he complainant read the pre-contractual information, familiarised himself with its content and signed acceptance of this”*, because the Record is showing that the Complainant signed the Pre-contractual Information Sheet immediately without so much as reading it. However, from the Record it follows that the Complainant had every opportunity to get acquainted with the content of the Pre-contractual Information Sheet as described above. The Complainant chose not to do so though.



Subsequently the Employee handed out the Pre-contractual Information Sheet and the Receipt to the Complainant (the Receipt displays the date and time of 26th October 2017, "14:24:0") and then paid him out 7,260 Czech Korunas.

According to Article 4 letter d) of the internal guidelines governing money exchanges the Complainant could refuse the conditions of the money exchange by refusing to sign the pre-contractual information sheet. In the case at hand the Complainant did not refuse to sign the Pre-contractual Information Sheet and the transaction was completed once the Complainant signed the Pre-contractual Information Sheet and obtained the exchanged money.

The Financial Arbitrator concludes that the Institution communicated all the information required by the Money Exchanges Act sufficiently in advance, in textual form, in the exact and comprehensive manner in Czech and English to the Complainant. The Pre-contractual information sheet clearly stated that the exchange fee was 2,823.52 Czech Korunas.

Therefore the Financial Arbitrator cannot conclude that the Institution breached any legal requirement regarding the Disputed Money Exchange or the exchange fee itself. Therefore the Financial Arbitrator did not examine the disruption of public order as excessive (an legal act has to breach the law and clearly disrupt public order cumulatively to be considered invalid pursuant to Sec. 588 of the Civil Code).

8.2.2 Breach of the good morals

The question is whether the Disputed Money Exchange clearly breached good morals (as it did not breach the law and disrupt public order or require an unfeasible performance).

In the case at hand, only three aspects of the money exchange could be questionable as to the good morals – that the exchange fee was charged, the awareness of the Complainant of the exchange fee and the amount of the exchange fee.

As to charging the exchange fee, the Money Exchanges Act (or any other statute) does not prevent the exchange offices from charging the fee. Moreover, the Money Exchanges Act explicitly deals with the possibility of charging the exchange fee [see Sec. 13 Par. 2 letter b) point 5. and 6. of the Money Exchanges Act].

As to the awareness of the Complainant of the exchange fee and its amount, the Financial Arbitrator found out that the money exchange fee percentage has been displayed on the exchange rates list in clear and comprehensive manner. Moreover, it has been proven that the percentage and the exact exchange fee amount as well have also been stated on the Pre-contractual Information Sheet presented to the Complainant sufficiently in advance before completing the money exchange.

The Financial Arbitrator therefore cannot consider charging the exchange fee as clearly breaching the good morals.

The Financial Arbitrator concludes that after weighing every relevant circumstance of the case at hand, the Disputed Money Exchange does not constitute invalid legal act in the sense of Sec. 588 of the Civil Code.

The Financial Arbitrator summarises that the Institution communicated all the information required by the Money Exchanges Act sufficiently in advance, in textual form, in the exact and comprehensive manner in Czech and English to the Complainant. The Pre-contractual information sheet clearly stated that the exchange fee was 28 % of 10.084 Czech Korunas and therefore its total amount made 2,823.52 Czech Korunas.



The Financial Arbitrator found out that the Institution provided such conditions of the Disputed Money Exchange that every average, well informed and cautious consumer would have every opportunity to decide whether she/he wants to conclude the contract or not.

In the case at hand, the Record is showing that the Complainant signed the Pre-contractual Information Sheet immediately without so much as reading it despite having every opportunity to get acquainted with its content. The Complainant freely chose not to read the conditions of the Disputed Money Exchange and despite not reading it he confirmed the Disputed Money Exchange with his signature on the Pre-contractual Information Sheet.

The Employee paid him out 7,260 Czech Korunas by telling over “*seven two sixty crowns for you*”. The Complainant did not immediately contest the paid off amount although he must have known that 400 euros (the presented amount) times 25.21 (the exchange rate) equals roughly a little over 10,000 Czech Korunas.

Moreover, in the proceedings before the Financial Arbitrator the Complainant falsely objected that he received and signed the Pre-contractual Information Sheet only after the transaction was over and that the Pre-contractual Information Sheet was folded to prevent him from reading its content properly.

9 On the verdict

The Financial Arbitrator did not found out any breach of the law by carrying out the Disputed Money Exchange and/or charging the exchange fee of 2,823.52 Czech Korunas. The Financial Arbitrator does not consider the Disputed Money Exchange invalid and therefore cannot award reimbursement of 92 euros or 2,319.32 Czech Korunas to the Complainant.

Based on all the above the Financial Arbitrator has decided as stated in the verdict.

I n s t r u c t i o n s o n a p p e a l :

Pursuant to Sec. 16 Par. 1 of the Financial Arbitrator Act the award can be contested by reasoned objections filed with the Financial Arbitrator in writing within 15 days of the delivery of the award. Any party may relinquish its right to file objections. The timely objections shall have the suspensive effect.

Pursuant to Sec. 17 Par. 1 of the Financial Arbitrator Act an award which cannot be contested by objection any more shall be in legal force.

Monika Nedelková
Financial Arbitrator

Delivery

Complainant – to the own hands: ■

Institution – Data Box ID: fsip7yq

