

**ANNUAL REPORT
ON FINANCIAL ARBITRATOR'S ACTIVITIES
FOR 2012**

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I. INTRODUCTION

While 2011 was a milestone year because an independent organisational body of the state, the Office of the Financial Arbitrator, was established to perform professional, organisational and technical tasks related to the Financial Arbitrator's activities, and the Financial Arbitrator's field of responsibility was extended to include disputes arising from consumer credit and collective investment, 2012 was a real test for both the Financial Arbitrator and the Office of the Financial Arbitrator.

In early 2012 as well as later in the year, the Office of the Financial Arbitrator struggled with lack of staff; the personnel was changed and replenished to the necessary extent by the end of the year but this involved delays in the Financial Arbitrator's decisions.

As concerns the number of handled disputes and the number of received queries, the increase vis-à-vis the previous period is evident; the number of disputes initiated in 2012 (a total of 204) increased by 22 % while the number of queries received in 2012 (a total of 1,368) was up by a huge 108 %. Consumer credit was a clear leader in both the disputes handled and the queries received. In this context, it should be mentioned that 304 proceedings were commenced for the first three months of 2013, i.e. almost 50 % more than in 2012 as a whole.

The outcomes of the decision-making work can be seen as highly positive. Where the Financial Arbitrator assessed the dispute as justified, it made the parties to the dispute reach an amicable settlement or the institution followed the Financial Arbitrator's ruling, including the payment of the fine imposed.

In the second half of 2012, petitioners started to apply massively to the Financial Arbitrator with a dispute about the fee for managing or administering a credit account; these disputes made up more than a half of all consumer credit disputes initiated. In conducting those disputes, the Financial Arbitrator encountered incompetence objections in respect of the disputes about credits excluded from the scope of the Act on Consumer Credit. After an extensive legal analysis conducted by the Financial Arbitrator in this issue, the Financial Arbitrator had to reconsider its previously held position on the competence to decide disputes arising from any consumer credit. In relation to petitioners, this means that the Financial Arbitrator is not authorised to resolve, in particular, the disputes arising from mortgage credits or credits where the value exceeds CZK 1,880,000.

As concerns the budget management by the Office of the Financial Arbitrator, as an organisational body of the state and an independent accounting entity, neither any binding indicators nor the total amount of state budget funds allocated to the activities of the Office of the Financial Arbitrator were exceeded during 2012. In addition, the Office of the Financial Arbitrator took part in the pilot operation of the Integrated Treasury System and, with its active participation, contributed to the commencement of full operation.

In late 2012, the Government appointed a new Deputy Financial Arbitrator, Mgr. Lukáš Vacek, an experienced expert in consumer protection, who focuses on consumer credits and financial education; this will clearly have a positive effect on the Financial Arbitrator's decision-making work, on the reinforcement of awareness-raising activities by the Office of the Financial Arbitrator as well as on financial literacy improvements in general.

In Prague, on 24 April 2013

Mgr. Monika Nedelková,

with her own hand
Financial Arbitrator

FINANCIAL ARBITRATOR AND DEPUTY FINANCIAL ARBITRATOR



Mgr. Monika Nedelková
Financial Arbitrator

Appointed by the Government on 16 November 2011.

A graduate from the Faculty of Law at the Charles University in Prague, Ms Nedelková has spent most of her professional life in public administration, primarily specialising in the financial market. In the past, she worked, inter alia, in the Czech Securities Commission as Director of the Penalty Proceedings Division, at the Czech National Bank in the Capital Market Supervision Department as Director of the Penalty Proceedings Division, and most recently at the Ministry of Finance as Director of its Financial Market Supervision Department. She is a member of the Financial Market Committee, an advisory body to the Bank Board of the Czech National Bank. She is one of the founding members of the Responsible Finance Platform.

Appointed by the Government on 20 December 2012.

After graduating from the Faculty of Law at the Charles University in Prague, Mr Vacek worked at the Ministry of Finance as Head of Retail Financial Services and Consumer Protection in the Financial Market Unit. He was primarily responsible for the preparation of domestic and European legislation in consumer credit, distribution in the insurance sector, etc. He was a member of the Platform for Out-of-court Resolution of Consumer Disputes at the Ministry of Industry and Trade. In addition, he is actively engaged in financial education and in resolving the problems of overindebtedness; he is one of the key members of the Anti-debt Alliance. He regularly publishes in professional press (Jurisprudence, Právo a rodina, Obchodněprávní revue) and gives lectures.



Mgr. Lukáš Vacek
Deputy Financial Arbitrator

II. FINANCIAL ARBITRATOR'S DECISION-MAKING WORK, PUBLIC RELATIONS, OBLIGATION OF INSTITUTIONS TO NOTIFY

The Financial Arbitrator received petitions from consumers, self-employed individuals as well as legal entities; the received petitions concerned a variety of financial services. Expressed in numbers, the Financial Arbitrator received a total of 1,572 applications in 2012, 204 of which were petitions to commence proceedings before the Financial Arbitrator while the remaining 1,368 applications were queries.

The Financial Arbitrator and its competence to resolve disputes between consumers and creditors or intermediaries while offering, intermediating or providing consumer credits, as put in place by the amendment to the Financial Arbitrator Act with effect from 1 July 2011, became the dominant area of the Financial Arbitrator's decision-making work; it was also the source of the largest number of queries to the Financial Arbitrator and notifications from institutions (intermediaries or creditors) in relation to meeting their obligation to notify.

Another very numerous group included disputes between payment service providers and payment service users while providing payment services. This also applies to queries in that area.

Consumers proved to be aware of the Financial Arbitrator's competence to decide disputes between investment funds, investment companies or foreign investment companies and consumers arising from standard collective investment funds and special collective investment funds that gather money from the public.

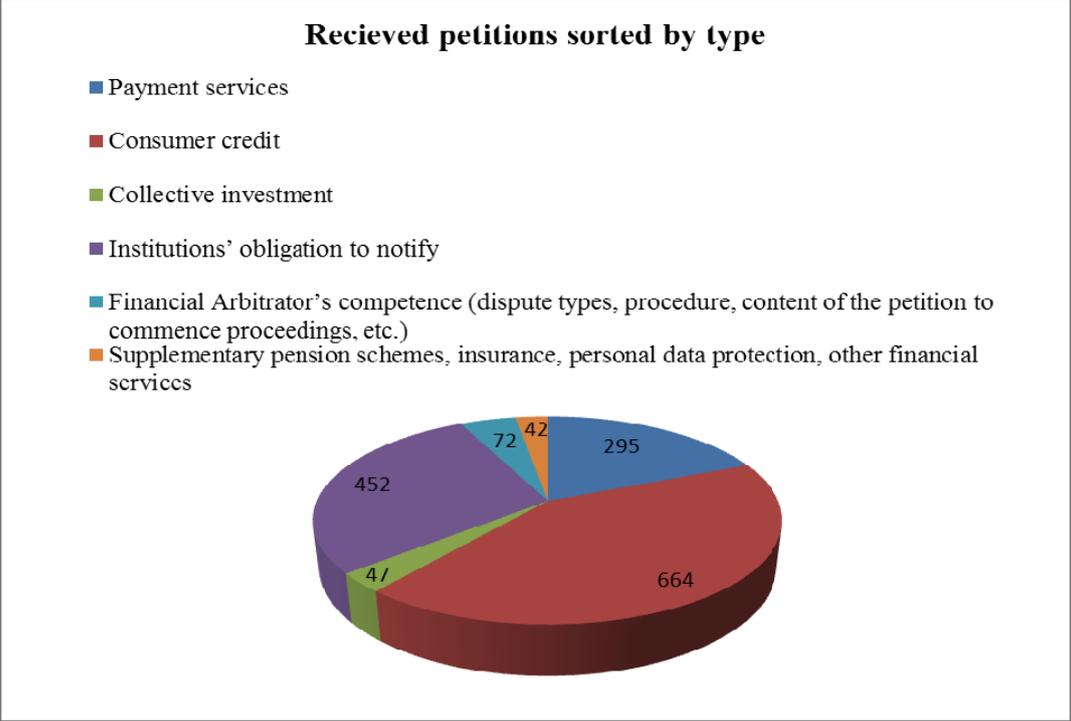
Over the period under review, the Financial Arbitrator handled no dispute between an electronic money issuer and an electronic money holder in respect of issuing and redeeming electronic money. The Financial Arbitrator received no query in that area.

The petitions received by the Financial Arbitrator over the period under review can be sorted by subject as follows:

Table 1 – Received applications sorted by type

Type:	Number:
Consumer credit	664
Payment services	295
Collective investment	47
Institutions' obligation to notify	452
Financial Arbitrator's competence (dispute types, procedure, content of the petition to commence proceedings, etc.)	72
Supplementary pension schemes, insurance, personal data protection, other financial services	42
	1,572

Graph 1 – Received applications sorted by type

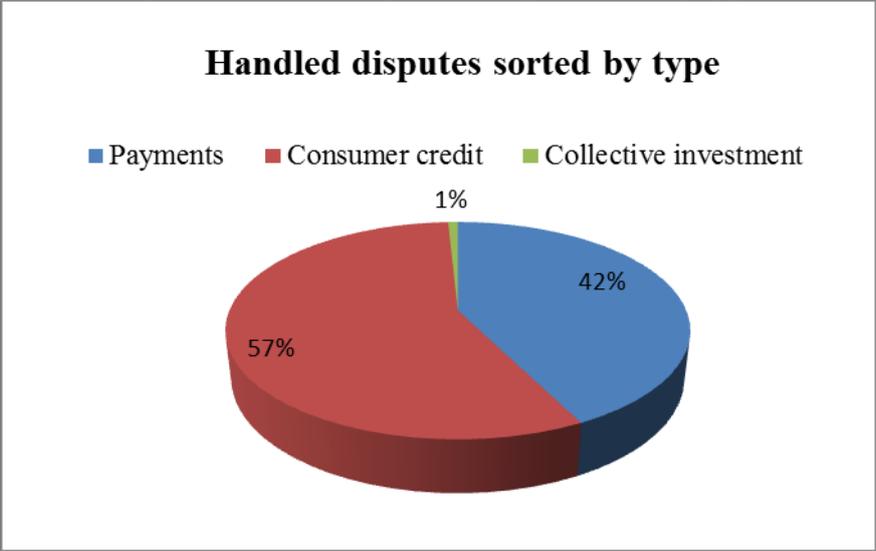


In 2012, the Financial Arbitrator conducted a total of 249 proceedings, 45 of which had been commenced in 2011. The disputes handled by the Financial Arbitrator in 2012, i.e. disputes where the Financial Arbitrator conducted proceedings (the figure in parentheses denotes the number of disputes commenced in 2011) can be sorted by type as follows:

Table 2 – Handled disputes (conducted proceedings) sorted by type

Type:	Number:
Payments	106 (34)
Consumer credit	141 (8)
Collective investment	2
	249

Graph 2 – Handled disputes (conducted proceedings) sorted by type



The most frequent disputes between consumers and creditors or intermediaries were those about various fees and amounts of those fees, ranging from the fee for entering into a credit agreement, the fee for the early repayment of a credit, the fee for a reminder in the event of a delay in repaying a credit, to the fees for administering or managing a credit account. Petitioners also disputed over the determination of the total amount of a debtor's liability to a creditor and over the intermediation commission.

Consumer credit queries applied not only to the aforementioned fees but also and in particular to distraint, discharge of debt and to credit bureau entries.

The most frequent disputes between payment service users and payment service providers were those about the fees related to managing or closing an account, about incorrectly executed payments during ATM withdrawal transactions and about unauthorised payment transactions by stolen or misused payment cards. There were also disputes about unauthorised payment transactions while using electronic banking, disputes about failure to pay out double the subsistence level income from a payment account affected by distraint and, last but not least, disputes about the validity of specimen signatures while using money in a payment account.

Payment service queries related not only to the aforementioned subjects of disputes but also to the interest on money deposited in a building savings account, to money transfers to an unintended recipient's account and to the conditions under which a contractual relationship can be terminated (notably building savings agreements).

Collective investment disputes and queries applied to the financial loss from an investment.

The public also applied to the Financial Arbitrator with queries about supplementary pension schemes and insurance, which do not yet lie within the Financial Arbitrator's competence.

Through the Office of the Financial Arbitrator, the Financial Arbitrator replies to all queries received. The Financial Arbitrator explains to each questioner in writing as to which disputes the Financial Arbitrator is competent to decide.

Where the Financial Arbitrator is presumed to be competent to decide the potential dispute, the Financial Arbitrator's reply includes instructions for the questioner about the conditions of the proceedings before the Financial Arbitrator, notably about the requirements for the petition to commence the proceedings, about the anticipated progress of the proceedings, about the impediments to the continuation of the proceedings before the Financial Arbitrator, as well as about the right to resolve the dispute before a general court of law or before a contractually agreed arbiter.

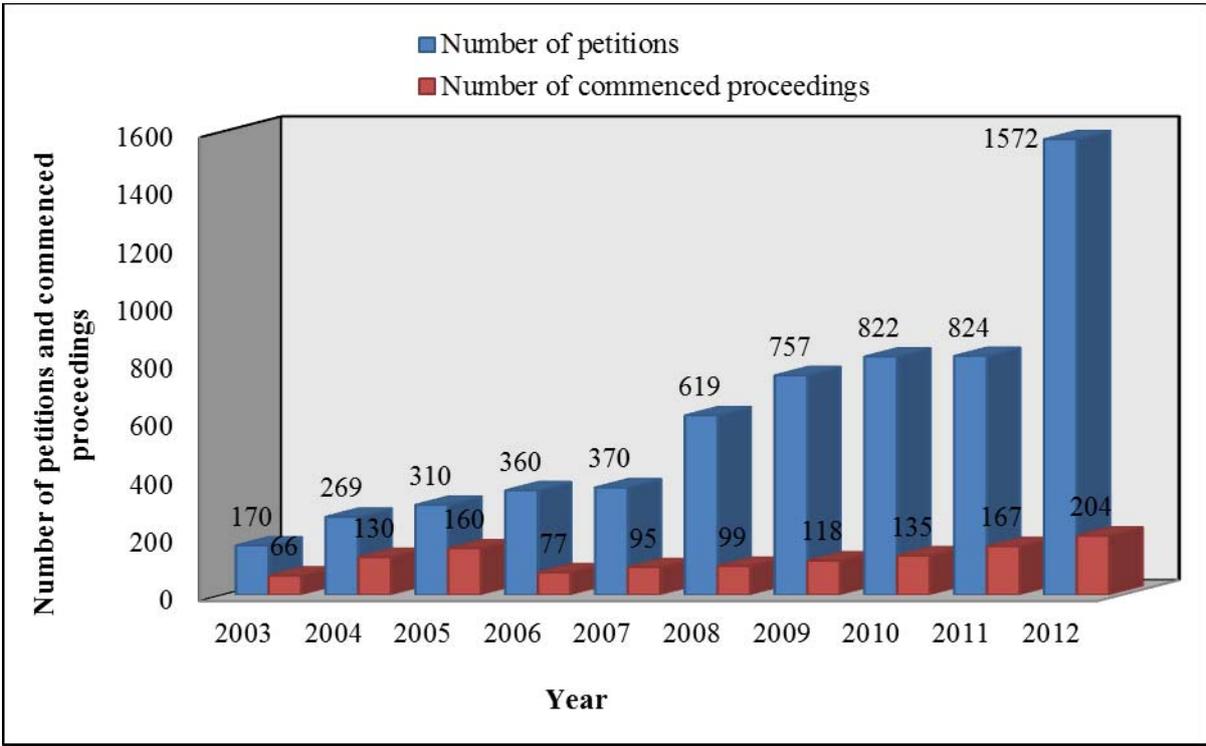
Where the Financial Arbitrator is evidently incompetent, each questioner is made aware of his or her right to apply to a general court of law or, where appropriate, to the supervisory authority responsible for the area concerned. The Financial Arbitrator always strives to reply to the subject matter of a query at least in general. Even in these replies, each questioner is provided with information about the Financial Arbitrator, its competence, as well as about the requirements for a petition to commence proceedings. Where the Financial Arbitrator deems it appropriate, it provides the questioner with information about the right of free legal assistance or information about non-profit consultancy organisations.

The comparison of the total numbers of received petitions and handled disputes in the individual years of the Financial Arbitrator’s existence is evidence of the rising trend in both the number of handled disputes and in particular the number of queries.

Table 3 – Comparison of the number petitions and the number of commenced proceedings since the establishment of the Financial Arbitrator

Year	Number of petitions	Number of commenced proceedings
2003	170	66
2004	269	130
2005	310	160
2006	360	77
2007	370	95
2008	619	99
2009	757	118
2010	822	135
2011	824	167
2012	1,572	204

Graph 3 – Comparison of the number petitions and the number of commenced proceedings since the establishment of the Financial Arbitrator



Petitioners most frequently submitted their petitions to commence proceedings through a postal carrier. In addition, they started to use data mailboxes; this applies, in particular, to legal entities and the individuals who use their data mailboxes as entrepreneurs. Petitioners also submitted their petitions in person at the Financial Arbitrator’s document receipt office. Questioners applied to the Financial Arbitrator through various means of communication, most often by phone, e-mail, over a Web form, by post, as well as in person.

Proceedings commenced in 2011

In 2012, the Financial Arbitrator dealt with a total of 45 disputes where the proceedings had been commenced in 2011, with 41 proceedings concluded by the end of the period under review, as follows:

- 1 proceeding ended up with the Financial Arbitrator having upheld the petition and having imposed a fine on the institution (the fine in the minimum amount of CZK 15,000 was paid by the institution);
- 25 proceedings ended up with the rejection of the petitioner's petition;
- 3 proceedings were discontinued due to the Financial Arbitrator's incompetence (during the proceedings the Financial Arbitrator drew a conclusion that it was not competent to decide the dispute);
- 10 proceedings were discontinued because the petition was withdrawn (the petitioner withdrew his or her petition because the dispute was settled between the petitioner and the institution prior to the conclusion of the proceedings before the Financial Arbitrator);
- 2 proceedings were discontinued due to the lack of the petitioner's assistance (after having submitted his or her petition, the petitioner failed, upon Financial Arbitrator's request, to eliminate the petition defects that prevented the continuation of the proceedings).

The most frequent causes of disputes included ATM withdrawal (8), payment account management (6), consumer credit (6) and money transfer to a foreign country (5).

In those proceedings conducted by the Financial Arbitrator, the petitioners claimed that the institutions should return or pay a total of CZK 2,760,000 to them.

Four proceedings commenced in 2011 were not concluded by the end of the period under review because an objection procedure was held in one case; another proceeding was interrupted due to a pending criminal procedure relating to the subject matter of the dispute; and in two cases the Financial Arbitrator repeatedly provided the petitioners with time to submit supporting documents.

In 8 cases the petitioners raised objections against the award or against the decision to discontinue proceedings, or appealed against the discontinuation ruling.

The average duration of the proceedings commenced in 2011 and concluded by the end of 2012 was 210 days for the Financial Arbitrator's decisions in the first instance and 233 days for the Financial Arbitrator's decisions under the objection procedure.

Proceedings commenced in 2012

By the end of 2012, the Financial Arbitrator decided 87 cases of the total of 204 proceedings commenced in 2012 as follows:

- In 2 cases the Financial Arbitrator upheld the petition and imposed a fine on the institution (in both cases the Financial Arbitrator imposed the minimum amount of fine because each of the disputes was about the amount of approximately CZK 8,000; in one case the institution paid the fine; in the other case the unpaid fine will be subject to a recovery procedure);

- 45 proceedings were discontinued because the petition was withdrawn (the petitioner withdrew his or her petition because the dispute was settled between the petitioner and the institution prior to the conclusion of the proceedings before the Financial Arbitrator);
- 2 proceedings were discontinued because the petition was withdrawn (the petitioner withdrew his or her petition without the dispute being dealt with);
- 5 proceedings were discontinued due to groundlessness of the petition (the dispute was settled between the petitioner and the institution prior to the conclusion of the proceedings before the Financial Arbitrator);
- 9 proceedings ended up with the rejection of the petitioner's petition;
- 9 proceedings were discontinued due to the Financial Arbitrator's incompetence (during the proceedings the Financial Arbitrator drew a conclusion that it was not competent to decide the dispute);
- 15 proceedings were discontinued due to the lack of the petitioner's assistance (after having submitted his or her petition, the petitioner failed, upon Financial Arbitrator's request, to eliminate the petition defects that prevented the continuation of the proceedings).

In 4 cases an award was issued by the end of 2012 where the petitioners raised objections against the award and the Financial Arbitrator failed to decide on the objections by the end of the period under review.

The most frequent causes of proceedings included consumer credit (35), payment account management (13), ATM withdrawal (12) and unauthorised payment transaction (4).

The average duration of the proceedings commenced in and concluded by the end of 2012 was 105 days for the Financial Arbitrator's decisions in the first instance and 110 days for the Financial Arbitrator's decisions under the objection procedure.

In proceedings conducted by the Financial Arbitrator, the petitioners claimed that the institutions should return or pay approximately CZK 2,770,000 to them.

Duration of proceedings before the Financial Arbitrator

The duration of proceedings before the Financial Arbitrator is influenced not only by the complexity of the case but also by the following factors:

- An overwhelming majority of the petitions submitted fail to meet all requirements for the petitions (notably failure to submit the contractual documentation, inadequate formulation of the subject matter of the dispute, failure to prove an unsuccessful complaint with the institution); the Financial Arbitrator always calls on the petitioner to eliminate the defects in the petition, and assists in formulating the subject matter of the dispute;
- Petitioners as well as institutions request an extension of the period to make comments or to submit supporting documents;
- The Financial Arbitrator seeks an amicable settlement between the parties to a dispute, most often by discussing the issue with the institution, which, in order to discuss the issue with the petitioner, is provided with adequate time for comments, i.e. for amicable settlement.

In the second half of 2012, petitioners started to apply massively to the Financial Arbitrator with a dispute about the fee for managing or administering a credit account; these disputes made up more than a half of all consumer credit disputes initiated. The Financial Arbitrator had to tackle the repeated objections from institutions to the Arbitrator's incompetence in respect of the disputes about credits excluded from the scope of the Act on Consumer Credit. The Financial Arbitrator conducted a legal analysis and had to reconsider its previously held position on the competence to decide disputes arising from any consumer credit.

In relation to petitioners, this means that the Financial Arbitrator is not authorised to resolve, in particular, the disputes arising from mortgage credits or credits where the value exceeds CZK 1,880,000, and has to discontinue any proceedings in respect of consumer credits excluded from the scope of Act No 321/2001 Coll. or Act No 145/2010 Coll.

Maintenance of a list of institutions

In addition to deciding disputes, the Financial Arbitrator is obliged to maintain a list of institutions¹⁾ against which petitions to commence proceedings before the Financial Arbitrator may be submitted, to the extent of the business name, name or first name and surname, registered office or place of business, and the designated contact person to communicate with the Financial Arbitrator, including the specification of the person's first name, surname, address, position, telephone, fax and, where appropriate, e-mail address, as well as the same data about the person acting as deputy for the aforementioned contact person. An institution has to meet its obligation to notify by no later than the date from which the institution is authorised to pursue its business.

The Financial Arbitrator received a total of 8,121 notifications in 2012; thus the total number of registered notifications, an overwhelming majority of which (99.88%) consists of the notifications by institutions that offer, intermediate or provide consumer credits, rose to 33,651 registered institutions. The undisclosed section of the list of institutions includes, in particular, the data on the designated contact persons to communicate with the Financial Arbitrator. The list of institutions published on the website of the Office of the Financial Arbitrator includes data on the institution's name, its place of business and, where appropriate, a website link. Data about changes is also entered into the public section on an ongoing basis; most often, the institutions notify an interruption of business or a change in a place of business.

Failure to meet the obligation to notify, incumbent upon institutions, or failure to meet such obligation properly is primarily addressed by the Financial Arbitrator through requests that the failing identified be eliminated and that the obligation to notify be met subsequently. During 2012, the Financial Arbitrator conducted no proceedings in respect of failure to meet the obligation to notify.

¹⁾ Section 19 of the Financial Arbitrator Act governs the obligation of institutions to notify.

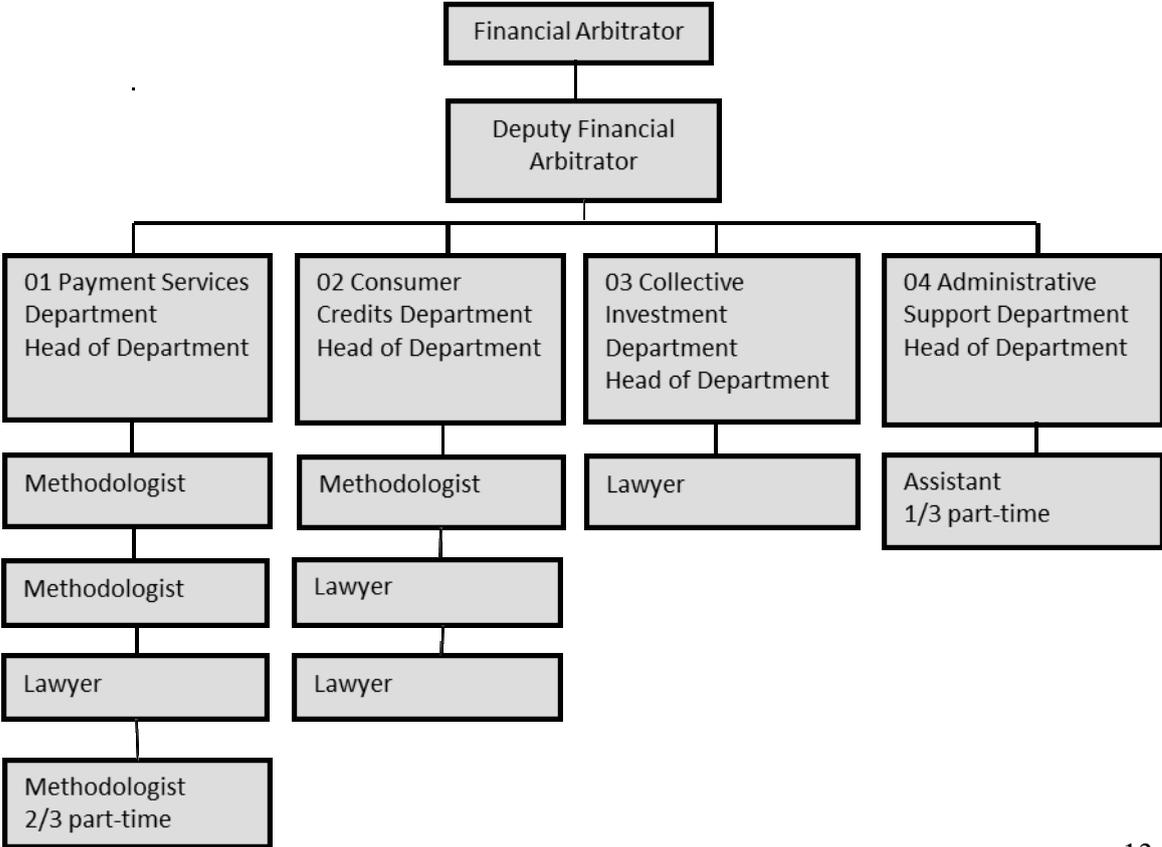
III. OFFICE OF THE FINANCIAL ARBITRATOR

The professional, organisational and technical tasks related to the Financial Arbitrator’s activities, including the agenda of the financial management of the organisational body of the state, the asset management and HR affairs were performed by the Office of the Financial Arbitrator with an average number of 13 employees in full-time equivalent during 2012.

The tasks primarily included conducting disputes (the individual operations in dealing with disputes), maintaining the list of institutions that may be parties to the disputes before the Financial Arbitrator (payment service providers, creditors or consumer credit intermediaries, investment companies and investment funds), arranging the public relations and relations with the other public authorities (website management, Financial Arbitrator’s Bulletin, Financial Arbitrator’s obligations to notify the Government and Parliament, participation in financial education), involvement in the international organisations that associate out-of-court dispute resolution bodies, book-keeping, management of state budget funds and fulfilment of the other obligations as an organisational body of the state.

During 2012, the staff of the Office of the Financial Arbitrator changed significantly, thus concluding the effort to create a functional professional, organisational and technical background for the Financial Arbitrator’s activities. The newly recruited members of staff of the Office of the Financial Arbitrator include young as well as experienced lawyers previously active in the law profession, at the court of arbitration, in the state administration, having been specifically engaged in the preparation of payment services legislation, been active in SOLVIT – the out-of-court dispute resolution mechanism in the Internal Market – or in a financial market supervision body.

Chart 1 – Organisational structure of the Office of the Financial Arbitrator as of 31 December 2012



By its Resolution No 965 of 20 December 2012, the Government of the Czech Republic appointed Mgr. Lukáš Vacek to be new Deputy Financial Arbitrator, with effect from 7 March 2013 for a 2-year term. Mgr. Lukáš Vacek replaced JUDr. Petr Scholz, PhD., who had served as Deputy Financial Arbitrator since 2003.

The Office of the Financial Arbitrator, as an organisational body of the state, the income and expenditure of which are part of the relevant budget heading of the Ministry of Finance, continued to use the resources of the Ministry of Finance for its activities in 2012. The Office of the Financial Arbitrator has resided (since July 2011) in a building owned by the state. The Office of the Financial Arbitrator also used IT and service equipment borrowed from the Ministry of Finance. Last but not least, until 31 July 2012, the Ministry of Finance had provided the Office of the Financial Arbitrator, through its own employees, with the option of book-keeping and budgeting consultancy.

Since 1 August 2012, the Office of the Financial Arbitrator can be seen as an independent organisational body of the state, which is a fully functional accounting and budgetary entity. As concerns the borrowed IT and service equipment, the Office of the Financial Arbitrator is being equipped on an ongoing basis, with primary emphasis on compliance with the legislation governing the acquisition of property; above all, the Office of the Financial Arbitrator postponed the purchase of IT equipment and will participate in a centralised public procurement organised by the Ministry of Finance for the entire budget heading of 2013.

The Office of the Financial Arbitrator has also been successfully involved in the pilot programme of the Integrated Treasury Information System.

IV. FINANCIAL ARBITRATOR'S OBLIGATIONS TO NOTIFY

Under the Financial Arbitrator Act,²⁾ the Financial Arbitrator is obliged to prepare an annual report on its activities, to notify the identified failings to authorities that exercise supervision over the institutions concerned, to notify the petitioners about possible assistance in relation to the commencement of proceedings before the Financial Arbitrator and to notify the public about the Arbitrator's decision-making process under the Financial Arbitrator Act, as well as about handled disputes. The Financial Arbitrator is obliged to publish the annual report on its activities, including the description of selected handled disputes, in an appropriate manner, once a year by no later than 30 June of the following calendar year.

The Financial Arbitrator will publish its Annual Report for 2012 in both hardcopy and electronic forms, in Czech as well as English. The Financial Arbitrator will also submit its annual report to the relevant supervisory authorities. All annual reports on the Financial Arbitrator's activities are also published and available on the websites of the Office of the Financial Arbitrator at www.finarbitr.cz.

The Financial Arbitrator has submitted a report on the Financial Arbitrator's activities, with the same text as this annual report, to the Government and the Chamber of Deputies.

In 2012, the Financial Arbitrator also informed the public about its activities through its annual report on providing information under Act No 106/1999 Coll., press releases, information published on its websites and information provided to media.

In early 2012, the Financial Arbitrator prepared the Financial Arbitrator's Bulletin and an information leaflet about the Financial Arbitrator for the public, including a specimen petition to commence proceedings, with detailed explanatory notes, and distributed them to all municipalities in the Czech Republic. Given the numerous responses from the representatives of municipalities as well as from questioners and petitioners, the information about the Financial Arbitrator reached its recipients. Naturally, the Financial Arbitrator and the Deputy Financial Arbitrator will continue to disseminate not only information about the Financial Arbitrator's existence but also information about the cases it deals with and, where appropriate, warnings.

²⁾ Section 21 of the Financial Arbitrator Act governs the Financial Arbitrator's obligations to notify.

V. FOREIGN COOPERATION

The Financial Arbitrator Act³⁾ obliges the Financial Arbitrator to cooperate on a reciprocal basis with similar bodies in Member States of the European Union (EU) and in other countries of the European Economic Area (EEA) and with EU bodies.

The Financial Arbitrator is member of FIN-NET, a financial ombudsman network of EEA countries, responsible, in particular, for exchanging knowledge and coordinating the working procedures as part of cooperation, inter alia, at business meetings held twice a year, usually in Brussels. Two plenary sessions were held in Brussels in 2012, with the Deputy Financial Arbitrator or other employee of the Office of the Financial Arbitrator taking part in both of them. The Deputy Financial Arbitrator also took part in the annual FIN-NET meeting in Budapest.

In addition, the Financial Arbitrator is member of the International Network of Financial Services Ombudsman Schemes (INFO Network). This organisation associates bodies established for out-of-court dispute resolution purposes from virtually all countries across the globe where such a body or institution was set up. In 2012, the Financial Arbitrator cooperated with the INFO Network through information exchange only.

In 2012, the Financial Arbitrator only reduced its international cooperation, i.e. the information exchange and provision, to the necessary extent, mainly because it needed to ensure that the Office of the Financial Arbitrator worked properly as a professional and organisational scheme for the Financial Arbitrator's decisions.

³⁾ Section 20 of the Financial Arbitrator Act

VI. COSTS OF PERFORMANCE OF THE FINANCIAL ARBITRATOR'S ACTIVITIES

Total expenditure of CZK 18,000,000 was approved under the state budget for the 2012 activities of the Office of the Financial Arbitrator, with CZK 2,100,000 allocated to capital (investment) expenditure and CZK 15,900,000 allocated to current (non-investment) expenditure. The 2012 budget of the Office of the Financial Arbitrator also included entitlements to unused 2011 expenditure of CZK 1,326,000, with CZK 64,000 of that amount being capital expenditure while CZK 1,262,000 being current expenditure.

Based on the Financial Arbitrator's decision, CZK 177,000 was transferred by a budgetary provision from the budget of the Office of the Financial Arbitrator to that of the Ministry of Finance during the period under review, with a suggestion to the Minister of Finance to use that amount for bonuses to certain employees of the Ministry of Finance who, beyond their ordinary occupational duties, provided the Office of the Financial Arbitrator with book-keeping and budgeting consultations.

By a decision of the Government of the Czech Republic, CZK 711,000, allocated to expenditure by the Office of the Financial Arbitrator, was committed in 2012, with CZK 500,000 earmarked for investment expenditure (all of the funds were intended for a car purchase) and CZK 211,000 earmarked for the other current expenditure (a portion of funds allocated to the purchases of water, fuel, energy, purchase of services, and the other items).

Thus the budgeted expenditure totalled CZK 18,438,000, with CZK 1,014,000 being capital expenditure and CZK 17,424,000 being current expenditure. The Office of the Financial Arbitrator used 75.79 % of the total budgeted funds allocated to current and capital expenditure, with 14.8 % of capital expenditure and 79.3 % of current expenditure having been used.

The approved budget for salaries and the other payments for work performed by the Office of the Financial Arbitrator was CZK 8,794,000, with CZK 8,254,000 of that amount allocated to salaries and CZK 540,000 allocated to the other payments for the work performed. The number of systemised positions, expressed as an annual average, was set at 14, with the average salary of CZK 49,000. The 2012 budget for employee salaries and the other payments also included entitlements to unused 2011 expenditure of CZK 188,000.

The funds used for employee salaries and the other payments totalled CZK 8,485,000 in the period under review, with CZK 8,235,000 used for employee salaries and CZK 250,000 for the other payments. Thus 94.5 % of the funds for employee salaries and the other payments was used, with 97.5 % of the funds for employee salaries and 46.3 % of the funds for the other payments having been used.

At the beginning of the period under review, the number of filled systemised positions was 11, as opposed to 14 at the end of the period under review (one systemised position of which was filled by 1/3 and 2/3 part-time staff). The average number of members of staff in full-time equivalent was 13 in 2012.

The actual average monthly salary was CZK 52,788, as opposed to the expected average monthly salary of CZK 49,131. The expected average amount of monthly salary was slightly exceeded due to a temporary lack of staff, when the selected job applicant started work later.

The uneven use of funds for salaries and the other payments was due to the gradual filling of systemised positions throughout the period and due to the payment of extraordinary bonuses as late as in the second half of the period under review. The budget expenditure on the other payments for the work performed was lower because of the reduced need of that expenditure.

The entitlements based on unused 2012 expenditure totalled CZK 4,474,000 as of 1 January 2013, with the programme financing expenditure of CZK 1,613,000 and the other current expenditure of CZK 2,861,000.

Of the expenditure on programme financing under Programme 11241 – Material and Technical Development and Renovation of the Office of the Financial Arbitrator, sub-programme 112V41 – Material and Technical Development and Renovation of the Office of the Financial Arbitrator, this includes budget items 5137 – Low-value tangible non-current assets, and items 5172 – Software equipment, and 5169 – Purchase of other services. Of non-profiling expenditure, this primarily included failure to use budget items 502 – Other payments allocated to agreements outside employment, budget items 5156 – Fuel, budget items 516 – Purchase of services, of which notably items 5162 – Telecommunication services, 5164 – Rent, 5166 – Consultancy and education expenditure, 5169 – Purchase of other services, and budget items 517 – Other purchases.

The reason for the failure to make full use of capital expenditure was the gradual process of equipping the Office of the Financial Arbitrator, which was not fully completed by the end of the period under review. The main reasons for the failure to make full use of current expenditure included lower expenditure on the purchases of energy, water and gas, when the budgeted funds were intended for commercial lease (the Office of the Financial Arbitrator continued to reside in a building owned by the state in 2012 and paid the related costs to the Ministry of Finance). The need of consultancy and advisory services was also much lower, as was the need of the costs of foreign missions; over the period under review, the Office of the Financial Arbitrator primarily focused its activities on the Financial Arbitrator's main business, i.e. conducting and deciding disputes, which the Office of the Financial Arbitrator carried out with its own staff.

VII. EXTENSION OF THE FINANCIAL ARBITRATOR'S COMPETENCE

Given the pending legislative processes and available information, it can be foreseen that, during 2013, with effect from the middle of 2013 or the beginning 2014, the Financial Arbitrator's competence will be extended to include disputes:

- a) arising from currency exchange services; the new bill on currency exchange services and the related amending law, also amending the Act No 229/2002 Coll., on Financial Arbitrator (Journals of the Chamber of Deputies of the Parliament of the Czech Republic No 845 and No 846), were discussed by the Budget Committee of the Chamber of Deputies on 27 February 2013, with the Committee recommending approval without reservation; they are proposed to take effect as of 1 July 2013;
- b) arising from intermediation or providing life insurance; the amendment to Act No 38/2004 Coll., on Insurance Intermediaries and on Loss Adjusters, which also includes a related amendment to Act No 229/2002 Coll., on Financial Arbitrator (Journal of the Chamber of Deputies of the Parliament of the Czech Republic No 853), is also designated for a discussion in the Budget Committee of the Chamber of Deputies, but the Committee has not discussed it yet, i.e. it interrupted the discussion at its meeting of 27 February 2013; the amendment is proposed to take effect on the first day of the first calendar month following the date of promulgation and this, given the progress of the legislative process, cannot be expected before the 4th quarter of 2013 or early 2014.
- c) arising from collective investment; the new bill on investment companies and investment funds and the related amending law, also amending the Act No 229/2002 Coll., on Financial Arbitrator (Journals of the Chamber of Deputies of the Parliament of the Czech Republic No 896 and No 897) were discussed by the Budget Committee of the Chamber of Deputies on 17 April 2013, with the Committee recommending approval (with reservations that did not relate to the Financial Arbitrator's competence); they are proposed to take effect as of 1 July 2013.

To carry out the activities relating to decisions on the disputes under a) to c), the number of experts in the Office of the Financial Arbitrator and the relating costs need to be increased.

The extension of the Financial Arbitrator's competence under a), i.e. to include disputes arising from currency exchange services, requires a staff increase by at least 3 experts. The required number of experts is based on the existing performance of the Office of the Financial Arbitrator and on the available data about the total of 131 complaints by clients of foreign exchange offices in 2011, as received by the Consumer Protection Department of the Czech National Bank, and the total of 937 foreign exchange offices, registered by the Czech National Bank as of today, as potential parties to disputes. Assuming that any such complaint might also be a dispute that the Financial Arbitrator would be competent to handle, the agenda would require a department of 3 experts within the organisational structure of the Office of the Financial Arbitrator.

The extension of the Financial Arbitrator's competence under b), i.e. to include disputes arising from intermediation or providing life insurance, requires a staff increase by at least 3 experts. The required number of experts is based on the existing performance of the Office of the Financial Arbitrator and on the available data about the number of concluded life insurance contracts, i.e. 8,500,000 as of today, according to data published by the Czech

National Bank, as well as on the data about the total number of entities (approximately 95,000) authorised to intermediate or provide life insurance (26 life insurers or mixed-activity insurers). In this context, we assume that the agenda will be similar to that of consumer credit, which the Financial Arbitrator has taken care of since 1 July 2011.

While the legislative changes under c) do not imply a substantive extension of the Financial Arbitrator's competence because the Financial Arbitrator has been allowed to handle collective investment disputes since 1 July 2011, the changes will involve a significant increase in the number of entities against which the proceedings could be conducted (in addition to the existing 22 investment companies and 77 investment funds, some of the entities that may newly be sued include 61 investment firms, 7,929 investment intermediaries⁴ as well as other entities managing or administering collective investment funds or offering investments in collective investment funds). Hence the number of petitions to commence proceedings is likely to increase in that area, and this will require a standard department of 3 experts within the organisational structure of the Office of the Financial Arbitrator (i.e. an increase by 1 member of staff vis-à-vis the current situation).

In relation to the increase in the number of experts under a) and b), it is also advisable to increase the number of employees who take care of professional administrative and operational activities by at least 1 expert in total.

Another extension of the Financial Arbitrator's competence can be expected in relation to the incorporation of the Directive of the European Parliament and of the Council on alternative dispute resolution for consumer disputes and the Regulation of the European Parliament and of the Council on online dispute resolution for consumer disputes, which envisage that, in all sectors of selling goods and providing services (i.e., inter alia, financial services), Member States shall establish an out-of-court consumer dispute resolution body, to which consumers can apply. The publication of both rules of EU law in the Official Journal is expected in the first half of 2013, with the deadline to incorporate the Directive being set at 2 years, and thus another extension of the Financial Arbitrator's competence is likely in the first half of 2015.

Should the extension of the Financial Arbitrator's competence to cover the entire financial market be approved, the Financial Arbitrator would also be competent to handle consumer disputes arising, for example, from building savings schemes as a whole, mortgage credits, investment services or the entire insurance sector, all of which the Financial Arbitrator has to dismiss for incompetence now.

⁴ As registered by the Czech National Bank as of 26 March 2013.

VIII. FINANCIAL ARBITRATOR'S INTENTIONS AND OBJECTIVES FOR THE NEXT PERIOD

The primary task of the Financial Arbitrator and its primary activity in the future will clearly be its decision-making work in respect of individual disputes relating to the provision of selected financial services.

In addition, the Financial Arbitrator will be more actively involved in the legislative work relating to the Financial Arbitrator's activities; above all, the Financial Arbitrator will share the knowledge from its decision-making experience to prevent situations when, due to vague legislation, the Financial Arbitrator has to declare its incompetence to decide a dispute.

Moreover, greater attention than in the previous year will be paid to the communication with expert community and general public, as well as with media. The lessons learnt from the Financial Arbitrator's decisions will be appropriately communicated outside to ensure that the Financial Arbitrator's activities contribute to the financial market cultivation on the one hand and help improve the financial literacy of the general public on the other. The Financial Arbitrator will provide the public with information about all disputes it handles, as well as about problems not related to the Financial Arbitrator's decision-making work, with which the public apply to the Financial Arbitrator.

Thus the Office of the Financial Arbitrator is likely to be much more engaged in awareness-raising efforts and in various projects focused on financial education. The Office of the Financial Arbitrator already participates in the activities of the Working Group for Financial Education, operating at the Ministry of Finance, and is prepared to get involved in the activities of its subgroups, established on an ad hoc basis, in the future. In May 2013, the Deputy Financial Arbitrator delivers a speech at an OECD conference on financial education, organised in Prague.

The Financial Arbitrator and the Deputy Financial Arbitrator will continue to be involved in the activities aimed at preventing and, where appropriate, tackling over-indebtedness. While the Financial Arbitrator is one of the founding members of the Responsible Finance Platform, the newly appointed Deputy Financial Arbitrator was, as representative of the Ministry of Finance, an active member of the Anti-debt Alliance. As both of these platforms essentially pursue similar objectives, the involvement of the Office of the Financial Arbitrator in the activities of both of them appears to be an exceptionally good opportunity to establish a closer cooperation among them in order to overcome a sort of fragmentation of activities in this area and to ensure that all key players hold discussions together.

Last but not least, the Office of the Financial Arbitrator is likely to be more involved in the international cooperation in 2013, at European level, where the Deputy Financial Arbitrator is proposed to become member of the Steering Committee of FIN-NET, a financial ombudsman network of EEA countries, as well as at global level under the International Network of Financial Services Ombudsman Schemes (INFO Network). The establishment of international cooperation will pay off in the easier handling of cross-border disputes, as well as in the form of experience exchange with foreign partners because, with the financial market globalisation, there is an ever-growing trend when problems faced by financial institution clients abroad in the past spill over to the Czech territory with the development of the Czech financial market.

Annex 1 – Selected cases decided by the Financial Arbitrator

The institution against which the dispute was raised	Bank
Subject matter of the dispute	Unauthorised ATM withdrawals
What the petitioner sought	Refund of CZK 12,500, including four handling fees charged at CZK 26 per transaction
Case description	
<p>The petitioner stated that, while shopping at a Levné knihy establishment, she had paid the purchased goods by her payment card and, after stepping back from the cash desk, she had carefully closed her handbag by a zip fastener. The petitioner also stated that the shop had been crowded with people and she had felt someone pushing against her. The petitioner added that the perpetrators could be organised in a group. Then, once she found her handbag semi-opened with no purse in it, she headed towards a branch of the institution, where she personally applied for blocking her card. The petitioner objected that she had been careful while making her payment and entering her PIN, and that her PIN had not been noted down anywhere in the stolen purse or on the card.</p>	
Dispute resolution	Petition rejected
Justification	
<p>The Financial Arbitrator found that all the disputable withdrawals had been made before blocking the card and were confirmed by a correctly entered PIN for the very first time.</p> <p>The Financial Arbitrator considered the petitioner’s behaviour to be grossly negligent, mainly because, at nearly the same moment when the petitioner suspected that someone could be watching her entering the PIN while she was making her card payment at the merchant, she entered the PIN, thus breaching her obligation when, as a user authorised to use the payment instrument, she failed to take adequate actions to protect the instrument’s personalised security features (PIN) and, shortly afterwards, she concurrently failed to pay adequate attention to her personal items, thus allowing the theft of her payment card, and breached her obligation to protect the payment card from being stolen under the terms of her bank.</p> <p>The Financial Arbitrator had to state that the petitioner, by failing to protect the personalised security features (PIN) enough and failing to treat her payment card with due care, had acted with gross negligence, and had to bear the full loss arising from the unauthorised ATM withdrawals.</p>	

The institution against which the dispute was raised	Bank
Subject matter of the dispute	The difference between a duly debited ATM withdrawal transaction and the actually debited amount
What the petitioner sought	Refund of CZK 750 or the transaction annulment, as appropriate
Case description	
<p>The petitioner stated that while withdrawing cash from an automated teller machine (ATM) in Bratislava, the ATM had offered the option, during the transaction, to choose a currency in which to debit the transaction without any details, notably as to what is the standard withdrawal and when the service is provided as an extra by the Slovak bank. As the transaction could not be completed without making the choice, the petitioner quite accidentally chose debiting in CZK. This led to a difference of CZK 750 to the disadvantage of the petitioner vis-à-vis the institution's standard terms, i.e. debiting at the exchange rate of 'foreign exchange – sale' with a fee of 0.8 % and CZK 80 added.</p> <p>The petitioner objected that the institution's business terms only governed a single option: debiting at the exchange rate of 'foreign exchange – sale', and therefore, in the petitioner's opinion, the debiting is purely an internal matter of the institution and of the Slovak bank; while contacting the Slovak bank, the petitioner was made aware that the Slovak bank was not a partner to the dispute and that the petitioner had to handle the dispute through the institution.</p>	
Dispute resolution	Petition rejected
Justification	
<p>While withdrawing cash from his own account through another bank's ATM, the payer and the beneficiary are the same person. In placing his payment order, i.e. inserting his payment card into the ATM, entering the PIN and choosing the amount to withdraw, the petitioner acted as a beneficiary because the objective of the transaction was the payment of cash from the account to the petitioner. The demanded funds were paid out by the Slovak bank, which acted as the beneficiary's provider. The Slovak bank provided the technical equipment (ATM) through which the beneficiary placed his payment order while the bank was also responsible for paying out the demanded amount of cash. In that case, the petitioner also acted as a payer because the institution, after receiving the payment order from the Slovak bank, as placed by the beneficiary with the payer's consent, debited the petitioner's, i.e. payer's, account with the funds in the amount withdrawn.</p> <p>According to the substantiation conducted by the Financial Arbitrator, the petitioner, as the beneficiary, chose the Czech koruna as the settlement currency during his ATM withdrawal. The choice of the Czech koruna was offered by the Slovak bank (beneficiary's provider) as an alternative to the standard settlement process. The petitioner chose the alternative, and thus the Slovak bank (beneficiary's provider) carried out the conversion, even though €1,500 in cash was paid out to the petitioner. As the institution debited the transaction in the amount authorised by the petitioner after the conversion by the Slovak bank, the bank proceeded in compliance with the Payments Act and its contractual obligations to the petitioner. The currency was converted by the Slovak bank, not by the institution. Hence the institution is not liable to the petitioner for the exchange difference arising from the transaction concerned and had no choice other than to debit the transaction in the amount of the executed conversion. The Slovak bank, as the beneficiary's provider, converted the currency on the</p>	

basis of the petitioner's instruction given through the ATM. The service by the Slovak bank was provided under a contractual relationship between that bank and the petitioner, i.e. an agreement on a single payment transaction.

The institution against which the dispute was raised	Bank
Subject matter of the dispute	Deposit through what is known as a ‘smart’ ATM
What the petitioner sought	Refund of CZK 10,000
Case description	
<p>The petitioner stated that, while depositing the cash of CZK 105,000 into an account through what is known as a smart ATM, the ATM had only counted CZK 95,000. The petitioner attempted to cancel the transaction and take her money back but the ATM only offered one option: transaction approval. Although the petitioner disagreed with the amount, the time expired, the ATM accepted the cash and printed a receipt for a deposit of CZK 95,000, stating that there was a transaction error.</p>	
Dispute resolution	Petition rejected
Justification	
<p>The Financial Arbitrator looked into the detailed sequence of all the steps that the ATM recorded about the deposit. These indicate that, when the deposit payment transaction started, the ATM contained a total of 238 banknotes (with 232 banknotes in the “<i>cash-in</i>” cassette, in which flawless banknotes are stored, and 6 banknotes in the “<i>reject</i>” cassette, which includes suspicious banknotes and those to be further examined). After recounting the banknotes, 46 banknotes were in the “<i>escrow</i>” status. One banknote was considered suspicious and the ATM moved it to the “<i>reject</i>” cassette. The number of banknotes in the “<i>reject</i>” cassette increased from 6 to 7 banknotes. Afterwards, 45 banknotes were moved to the “<i>cash-in</i>” cassette (44 of which in the nominal value of CZK 2,000 and 1 of which in the nominal value of CZK 5,000). The number of banknotes in the “<i>cash-in</i>” cassette increased from 232 to 277 banknotes. The “<i>escrow</i>” cassette was empty. The cash processing record indicated that no cash surplus had been shown in the ATM and that a test deposit carried out as part of checking the ATM’s “<i>cash-in</i>” cassette had not been affected by any technical failure. Although the video recording that captured the cash processing was no longer available, the Financial Arbitrator did not identify an existence of any doubts about the correctness of the cash processing record, as the bank credibly described how the relevant members of staff proceed in cash processing and how the members of staff handle the “<i>cash-in</i>” cassette of what is known as a ‘<i>smart</i>’ ATM.</p> <p>Furthermore, the Financial Arbitrator examined why the ATM continued to execute the deposit payment transaction even though the petitioner wished to revoke it after recounting the banknotes (this is a moment when the banknotes are in the “<i>escrow</i>” status and the ATM is waiting whether the depositor will confirm or revoke the deposit payment transaction).</p> <p>The gathered supporting documents indicate that if a smart ATM considers all of the deposited cash to be flawless, it will offer the following options to the depositor after recounting the cash: 1) deposit into an account (i.e. execution of a deposit payment transaction); 2) insertion of more banknotes; 3) return of the banknotes (i.e. revocation of the deposit payment transaction). Where the smart ATM does not consider all of the deposited banknotes to be flawless, it will offer the depositor, after recounting the cash, only the “deposit into an account” option and automatically executes the deposit payment transaction.</p> <p>The Financial Arbitrator drew a conclusion in the proceedings that the institution had not even breached contractually assumed obligations.</p>	

The institution against which the dispute was raised	Bank
Subject matter of the dispute	Unauthorised ATM withdrawals
What the petitioner sought	Refund of CZK 17,000
Case description	
<p>According to the petitioner, the PIN of her payment card was probably seen by a group of three youngsters, who kept hanging about and staring at her while she was entering a PIN at a supermarket cash desk. Then the petitioner was robbed of her handbag at a car park, including her purse, payment cards and other personal items, when she left her handbag in a shopping cart at the boot of her car and went towards the driver's door. Then an unknown perpetrator made three ATM cash withdrawals, totalling CZK 17,000, with her stolen payment card.</p>	
Dispute resolution	Petition rejected
Justification	
<p>According to the Financial Arbitrator's findings, all of the three withdrawals had been made before the payment card was blocked, and had been confirmed by a correctly entered PIN for the very first time. In addition, it should be noted that, although the petitioner was aware of being watched while entering her PIN at the supermarket cash desk, she completed the pending transaction (payment for her shopping), without even trying to create her discrete space by herself or with assistance of cash desk personnel or supermarket security guards. In addition, although the petitioner suspected (or even was convinced, in this case) that she had been watched while entering her PIN and making her card payment at the merchant, she left her payment card in a handbag outside the car, at the car boot, unattended (while she was at the driver's door).</p> <p>Thus the petitioner substantially breached her obligation to treat her payment card with due care, as she had undertaken under her agreement with the bank. In spite of the theft of her payment card, the petitioner could prevent the execution of the unauthorised payment transactions by blocking her stolen payment card as soon as possible. Although the petitioner's payment card as well as handbag with other personal items and a mobile phone were stolen, she could make and should have made effort to report the theft of her payment card to the bank by calling, for example, from a telephone at the information desk of the department store where she made the payment by her card. The petitioner could also strive to find out whether any branch of the bank, where she could block her card, was near the department store. The petitioner failed to make such effort and did not report the theft of her payment card to the bank until she arrived at home from the shopping centre, more than 60 minutes after the theft of her payment card, and this, given the factual background of the case, is a period longer than 'without undue delay'.</p> <p>The Financial Arbitrator did not detect the occurrence of any loss (in the amount of unauthorised withdrawals) after the petitioner reported her lost payment card to the bank, nor did the Financial Arbitrator detect any failure of the bank to ensure that the petitioner had appropriate means to report a payment card theft anytime.</p> <p>The Financial Arbitrator had to state that the petitioner, by failing to protect the personalised security features (PIN) enough, by failing to treat her payment card with due care and by blocking her stolen payment card with a delay of more than 60 minutes, had acted with gross negligence, and had to bear the full loss of CZK 17,000.</p>	

The institution against which the dispute was raised	Bank
Subject matter of the dispute	Failure to dispense cash from an ATM
What the petitioner sought	Refund of CZK 3,000
Case description	
<p>According to the petitioner, she wished to withdraw CZK 3,000 from an ATM. She inserted her payment card into the machine, entered her PIN and placed her request for a withdrawal of CZK 3,000; however, the ATM failed to dispense the cash to the petitioner. Afterwards, the petitioner checked her account balance through that ATM and found that she had been debited with that sum. The bank branch was already closed but the petitioner succeeded in contacting a member of the branch staff, who offered to check the petitioner's card. The staff member told the petitioner to come the next day to resolve the problem. After the petitioner visited the branch, she was told that the sum had been debited correctly, with no surplus recorded in the ATM. The petitioner filed a complaint, which was rejected.</p>	
Dispute resolution	Petition rejected
Justification	
<p>To find out whether or not the ATM dispensed the cash of CZK 3,000, the Financial Arbitrator primarily used the ATM's log, where the cash withdrawal was recorded. The ATM log showed no records of the ATM's failure to dispense the cash of CZK 3,000 (three banknotes in the nominal value of CZK 1,000). The Financial Arbitrator also examined the progress of the payment transactions carried out through the ATM after the disputable payment transaction until the ATM's closing time, which was the next day. In none of the subsequent payment transactions within the period concerned did the ATM dispense an amount of money different from the amounts in the individual payment orders.</p> <p>Not even the ATM closing document indicated that, during the period under review, the ATM might contain banknotes that should have been dispensed to the petitioner. The Financial Arbitrator was also interested in the technical checks on the ATM as performed in 2011 and in the middle of 2012. None of the 18 technical checks detected any signs of a technical failure or other defect; above all, they did not indicate the ATM's failure to dispense cash without the ATM log recording this.</p> <p>In addition, the Financial Arbitrator examined whether any other events of wrongly dispensed cash had occurred in the ATM before or after the petitioner's disputable payment transaction. According to the institution, there was just one event of wrongly dispensed cash. After reviewing the ATM log in respect of that event, the Financial Arbitrator drew a conclusion that the ATM log reliably recorded the sequence of individual steps during cash withdrawals by clients.</p> <p>The evidence presented by the bank is enough for the Financial Arbitrator to draw a conclusion that the ATM log would also record the petitioner's wrongly dispensed cash if this was the case.</p> <p>The conclusion drawn by the Financial Arbitrator is that the bank discharged its burden of proof in relation to the petitioner and to her petition to commence proceedings before the Financial Arbitrator, and proved that the disputable payment transaction had been executed correctly.</p>	

The institution against which the dispute was raised	Bank
Subject matter of the dispute	Unauthorised payment transactions
What the petitioner sought	Refund of CZK 31,821
Case description	
<p>The petitioner stated that, while making a cash payment for a five-day car rental in Guatemala, he had been asked by the head of the car rental company to produce his payment card in order to check its validity and his financial standing in respect of a potential excess in the event of an accident (not in the event of a theft). The petitioner also stated that the head of the car rental company had checked the card in a terminal in the petitioner's presence. In 4 days, the borrowed vehicle was stolen from the petitioner, along with all documents and personal items. After reporting the theft to the local police and contacting the car rental company, its head requested a confirmed record from the petitioner for the sake of payment of insurance benefits albeit later the head of the car rental company stated that the car had not been insured against theft.</p>	
Dispute resolution	Petition rejected
Justification	
<p>The Financial Arbitrator found that the petitioner had signed a declaration by which he recognised his liability for damages of Q 13,000, caused by the car theft. In this context, the petitioner also signed a payment order, in which the petitioner's embossed payment card was printed by an imprinter, including the data on its number, holder's name, and the month and day of the start and end of the payment card's validity period.</p> <p>By signing the payment order, in which the petitioner's embossed payment card was printed by an imprinter, including the data on its number, holder's name, and the month and day of the start and end of the payment card's validity period, the payment transaction was authorised by the petitioner. Upon authorisation, the petitioner's consent did not contain consent to the accurate amount of the payment transaction; it was what is known as the 'blank authorisation'. In blank authorisations, the payment order may not necessarily include all of the required data at the time of authorisation; the data is added later by the beneficiary, in accordance with an agreement between the payer and the beneficiary. The car rental company subsequently completed the payment order with the accurate amount of the payment transaction, in compliance with the terms of this company and the declaration by which the petitioner recognised his liability for damages.</p> <p>According to the Financial Arbitrator's findings, CZK 31,821.15 was transferred from the petitioner's account to the car rental company's account. It was a payment transaction the payment order of which was placed by the car rental company on the basis of consent given to the company by the petitioner. The car rental company transmitted the payment order to the processing bank (its payment service provider), which forwarded it to the institution (the petitioner's payment service provider).</p> <p>Blank authorisation of a payment transaction poses a risk to payers, and therefore the payer may, under certain circumstances, request a refund of the amount of the payment transaction authorised by the payer in the blank form (Section 103 of the Payments Act). The amount of a payment transaction is refunded if two conditions are concurrently met: if the accurate amount of the payment transaction is not set at the time of authorisation and if the subsequently debited amount exceeds the amount that the payer could reasonably foresee with respect to all circumstances. Nevertheless, the latter condition was not met in respect of</p>	

the petitioner. In accordance with the declaration by which he recognised his liability for damages, the petitioner's excess was limited to Q 18,000.

The Financial Arbitrator rejected the petition because it failed to gather evidence of the institution's breach of a legal obligation imposed on it or its contractually assumed obligation in relation to the petitioner and to his petition to commence proceedings before the Financial Arbitrator.

The institution against which the dispute was raised	Bank
Subject matter of the dispute	Failure to dispense cash from an ATM
What the petitioner sought	Refund of CZK 11,000
Case description	
<p>The petitioner stated that, while withdrawing the cash of CZK 11,000 by card from his account through the institution's ATM, the ATM failed to dispense the cash. The petitioner immediately and in person reported this to a branch of the institution, yet the bank debited the petitioner's account with that sum and, after the completion of its compliant procedure, the institution let the petitioner know that the ATM had dispensed the cash. The petitioner also stated that the bank had recommended him to apply to the Police of the Czech Republic; the petitioner did so and, after approximately three months, received a resolution from the Police of the Czech Republic on the discontinuation of the case of the criminal complaint lodged by him.</p>	
Dispute resolution	Proceedings discontinued (amicable settlement)
Justification	
<p>According to the Financial Arbitrator's findings, the ATM recorded the following steps during the disputable withdrawal: insertion of the card, authorisation of the withdrawal of CZK 11,000, counting of the cash. However, unlike the ATM records for other withdrawals, it failed to record the receipt of the cash. About one minute after the petitioner left the ATM, the ATM recorded a card insertion by another person, who came to the ATM and took out cash. This record on cash receipt, which is missing for the petitioner's withdrawal, occurs twice for the withdrawal by that next person. The first record was made, without any logical move by that person, once the person's payment card was inserted whereas the second record was related to an authorised withdrawal of CZK 1,000. Thus the core of the dispute before the Financial Arbitrator was whether the failure to take out the cash was due to a defective ATM, which failed to dispense the cash, or due to a mistake by the petitioner, who neglected to take out the cash dispensed.</p> <p>After reviewing the video recording from the camera installed on the ATM, the Financial Arbitrator drew a conclusion that the petitioner had not been negligent. He reported the failure to dispense cash, i.e. failure to execute the payment transaction, immediately at the nearest branch of the institution, thus meeting his statutory obligation under the Payments Act, the general precautionary obligation to prevent damage under the Civil Code, as well as his contractual obligations to the bank under its general business terms, albeit it would have been more prudent in that situation to contact the bank by phone while continuing to watch the ATM.</p> <p>The Financial Arbitrator did not consider the bank's statement that, according to the central computer's record, there was no failure, that no surplus was detected on that day and that the bank did not detect non-standard behaviour of the ATM to be an adequate proof that the ATM had dispensed the cash. The cash surplus might not be necessarily detected because the cash might have been dispensed to another person, which was most likely the case.</p> <p>Based on available information, the Financial Arbitrator drew a conclusion that the bank was not able to prove that its ATM had dispensed the cash to the petitioner, and therefore the bank was liable to the petitioner for the incorrectly executed payment transaction. During an objection procedure, the institution and the petitioner reached an amicable settlement, when the institution paid the full amount to the petitioner.</p>	

The institution against which the dispute was raised	Bank
Subject matter of the dispute	Failure to dispense (retraction of) banknotes during an ATM cash withdrawal
What the petitioner sought	Refund of CZK 7,400
Case description	<p>According to the petitioner, he was about to withdraw the cash of CZK 7,600 from an ATM located in the street but, after placing the cash withdrawal request and taking back his payment card, a gust of wind blew against the ATM when the cash dispensing slot opened and, while the petitioner wanted to grab the banknotes, only banknotes totalling CZK 200 remained in his hand whereas the other banknotes were retracted. Hence the petitioner immediately called the bank's information line. The institution had the ATM restarted but the ATM failed to dispense the cash even after reboot. Therefore the petitioner again called the information line, where another operator told him that a complaint procedure would be conducted and that he could leave the ATM. Afterwards, the bank called the petitioner to tell him that no cash was found in the ATM, and recommended him to apply to the police to view the recording from the camera installed in the ATM.</p>
Dispute resolution	Petition rejected
Justification	<p>In relation to the disputable payment transaction, i.e. the ATM cash withdrawal, the Financial Arbitrator used the ATM log, which records data on the individual steps of payment transactions. The progress of the disputable payment transaction was partly captured by the camera installed on the ATM.</p> <p>Its recording showed a movement of the hand by which the petitioner was taking out the cash, but it was impossible to state for sure how many banknotes he was taking out or whether the dispensed banknotes were retracted. The recording does not even indicate the fact stated by the petitioner, i.e. that, while the cash was being dispensed, <i>"a gust of wind blew against the ATM at that moment"</i>.</p> <p>The ATM log showed no records of the retraction of CZK 7,400 in cash by the ATM (three banknotes in the nominal value of CZK 2,000, one banknote in the nominal value of CZK 1,000, two banknotes in the nominal value of CZK 200). For the purposes of these proceedings, the Financial Arbitrator also examined the progress of the payment transactions carried out through the ATM after the disputable payment transaction until the ATM's closing time, which was 4 days after the disputable payment transaction. In none of the subsequent payment transactions over the period concerned did the ATM dispense an amount of money different from the amounts requested by the individual clients. Not even the ATM closing document indicates that the ATM might, over the period concerned, contain the banknotes that should have been dispensed to the petitioner. The Financial Arbitrator was also interested in the technical checks on the ATM that were performed in 2011 and 2012. None of the technical checks detected any signs of a technical failure or other defect in the ATM; above all, they did not indicate a spontaneous activation of the cash retraction feature in the ATM. Thus the Financial Arbitrator regarded the institution's statement that the ATM's cash retraction feature was not active as sufficiently established.</p> <p>Hence the Financial Arbitrator had to state that the institution had discharged its burden of proof in relation to the petitioner and to his petition to commence proceedings before the Financial Arbitrator and had proved its compliance with legal obligations. The petitioner's</p>

right to damages of CZK 7,400 did not arise and the petition was rejected.

The institution against which the dispute was raised	Bank
Subject matter of the dispute	Unauthorised ATM withdrawals
What the petitioner sought	Refund of CZK 31,117.36
Case description	
<p>According to the petitioner, the withdrawals were made by her stolen payment card abroad – in Turkey, and totalled CZK 31,117.36. The petitioner detected the theft of her payment card about 1 hour after using it for a payment transaction in a shop. The petitioner strove to report the fact to the institution without undue delay but she did not have a mobile phone with her and, while being upset, she could not even remember the institution’s phone number. Over the Internet, which was difficult to find, however, the petitioner looked up the institution’s phone number and reported her payment card theft from a borrowed mobile phone. The payment card was blocked about 2 hours after her last authorised payment and approximately 1 hour after the detection of the payment card theft. The petitioner also stated that the payment card had been stolen on Sunday, when banks and offices, which could help her report the entire situation to the institution earlier, were closed. The petitioner stated that the payment card had been probably misused in the wake of her latest payment in the shop, which had been fairly crowded with people, while the potential thief, without the petitioner noticing it, had likely been able to watch her enter the PIN over her shoulder. Several unauthorised transactions were subsequently made within two hours, some of which were rejected and the PIN of one transaction was wrong.</p>	
Dispute resolution	Petition rejected
Justification	
<p>According to the Financial Arbitrator’s statement, the petitioner was grossly negligent because, if she was aware of the crowdedness of the location, and especially of the fact that someone was so close to her that, looking over her shoulder, he or she could see her PIN, she should have and might have foreseen that entering the PIN could lead to the disclosure of it and she should not have entered it or she should have created such space around her to prevent the disclosure of the PIN (e.g. with personnel’s assistance).</p> <p>In addition, as the unauthorised payment transactions proved to be made in the physical presence of the payment card, the Financial Arbitrator believes that the petitioner breached her agreement with the institution because, pursuant to the product terms, she failed to take an adequate measure to prevent the theft of her payment card, and thus she contributed to the execution of the unauthorised payment transactions.</p> <p>The Financial Arbitrator had to state that the petitioner, by failing to protect the personalised security features (PIN) enough and failing to treat her payment card with due care, had acted with gross negligence, and had to bear the full loss of CZK 31,117.36.</p>	

The institution against which the dispute was raised	Bank
Subject matter of the dispute	Account management fees
What the petitioner sought	Refund of CZK 1,497 in fees
Case description	
<p>The petitioner stated that, when she had opened her current account with the institution in 2009, she had been repeatedly reassured of the free management of the account. In relation to the account, the institution also issued a payment card and established the Internet banking, which the petitioner did not activate. In May 2012, the petitioner received an SMS message from the institution's department of claims, notifying her that she had owed an account management fee to the institution. After visiting a branch of the institution, the petitioner learnt that the management fee for the current account was CZK 499 per month and that the account could not be closed earlier than in a month.</p> <p>The institution replied to the petitioner's complaint that it had not breached any of its obligations because, since October 2011, the petitioner had set the sending of account statements electronically rather than by post. The electronic sending was set to the petitioner's e-mail address, to which the petitioner received no account statement, however. Moreover, the institution let the petitioner know that it had sent the account statements to the petitioner's Internet banking application, but this contravened the aforementioned agreement on sending the account statements to the petitioner's e-mail address. The petitioner never activated her Internet banking. The petitioner stated that she had never applied to the bank for a change in the form of sending her account statements; this is why she had never received a single account statement and had no idea of being newly charged a fee of CZK 499 per month. If she had known that, she would have closed her account immediately.</p>	
Dispute resolution	Proceedings discontinued (amicable settlement)
Justification	
<p>The institution objected to the Financial Arbitrator's request that it was entitled to charge the fee of CZK 499 per month under its product terms and general business terms unless the sum of all of the client's deposits was CZK 1,000,000 as of every 20th day of a month. As concerns the change to the form of account statements, the institution stated that the petitioner had visited a branch of the bank in October 2011 and had personally signed a change to the current account instructions, under which the distribution of monthly account statements had changed.</p> <p>In view of the petitioner's statement that an institution's employee misinformed her that the service of electronic account statements was based on sending the account statements to the client's e-mail and because the institution was not able to demonstrate what the subject of the conversation between the petitioner and the institution's employee was, the institution offered the petitioner an amicable settlement of the dispute.</p> <p>The Financial Arbitrator discontinued the proceedings because the petitioner withdrew her petition for the proceedings before the Financial Arbitrator, as the dispute was settled amicably during the proceedings between the petitioner and the institution.</p>	

The institution against which the dispute was raised	Bank
Subject matter of the dispute	Foreign-currency payment transaction
What the petitioner sought	Refund of CZK 2,582.56 and CZK 250
Case description	
<p>The petitioner states that she placed a payment order of US\$ 3,512.94 to the United States with the institution. The petitioner's account was debited with CZK 60,615.78, including the transaction fee of CZK 250. The petitioner says that she specified all data, as required by the institution for the order, absolutely correctly and, because she found no "intermediary bank" field in the order, the petitioner, to make sure, called the institution's phone line, where she was told that she only needed to specify a SWIFT code. When the petitioner continued to search for her payment, an institution's employee told her that the payment could not be executed because she had specified a wrong beneficiary's account number and that the money had returned to her account. However, the petitioner only received an amount reduced by CZK 2,582.56 rather than the full amount to her account. The petitioner concludes that, if the transaction was not executed because of the institution's fault, the institution should return the full amount rather than deducting CZK 2,582.56 from it. In addition, on 31 August 2011, the petitioner's account was debited with CZK 250, referred to as a fee, without any specification what the fee was charged for.</p>	
Dispute resolution	Petition rejected
Justification	
<p>In view of the gathered supporting documents, the Financial Arbitrator considered it established that the petitioner, while placing her order, had chosen the account number in the national format, i.e. failing to use the international IBAN format, as the unique identifier of the beneficiary, which is the key data required for the execution of a transaction. The beneficiary bank was referred to by her as the beneficiary bank. The specified SWIFT code, as the unique international identifier of a payment institution (bank), did not belong to the beneficiary bank but only to the correspondent bank, which was not the beneficiary bank, as the petitioner herself said. However, in executing international transactions, the unique identifier of the beneficiary, whether in the national format or in the international IBAN format, and the unique SWIFT/BIC payment institution identifier can be seen as the key data required for the correct execution of a payment transaction. Thus, as indicated above, the petitioner placed an internally inconsistent payment order with the institution, when the data on the beneficiary's provider, as specified by her, referred to two different banks (providers). As the petitioner breached the agreement on electronic account management, the payment order could not subsequently be duly executed and the institution was only obliged to make every effort that could be reasonably required from it for the money from the incorrectly executed payment transaction to be returned to the petitioner, and this actually happened.</p> <p>The exchange difference of CZK 2,582.56, as sought by the petition, is a direct consequence of the incorrectly specified unique bank identifier SWIFT/BIC. As a result of the incorrectly specified bank identifier, the payment order could not be duly executed, and the outcome intended by the petitioner – i.e. crediting the money in USD to the beneficiary's account – could not be achieved. The institution transferred the amount of US\$ 3,512.94 in accordance with the payment order placed by the petitioner and then, for the aforementioned reasons, the amount of US\$ 3,491.14 returned to the petitioner. The difference of US\$ 21.8 arose upon remitting the money back by the correspondent bank and corresponds to the fees charged by that bank for executing the transaction, as stated in the report for the institution's correspondent bank. As of the date when the money was credited to the account, the</p>	

USD/CZK exchange rate specified in the institution's list of exchange rates was CZK 16.623 per USD, and thus the amount corresponding to US\$ 3,491.14, expressed in Czech korunas, was CZK 58,033.22. This amount was credited to the account.

The Financial Arbitrator also found the petitioner's request for the refund of the fee of CZK 250 illegitimate because, although the execution of the payment order did not have the effects intended by the petitioner, the institution proceeded in accordance with the payment order placed by the petitioner and transferred the money in USD, with the SHA fee instruction, for which, under the provisions of the current account agreement and of the price list, it was entitled to charge a fee of CZK 250 to the petitioner for the service provided.

In this context, the Financial Arbitrator also dealt with the question whether the inconsistency in the identification of the beneficiary bank was due to the institution's action, such as an incorrect recommendation to specify a correspondent bank's SWIFT. To this end, the Financial Arbitrator played the recording of the telephone conversation between the petitioner and the institution's operator, as presented by the institution, which indicated that the institution's operator had expressly recommended the petitioner to specify only the data about the beneficiary, i.e. the beneficiary bank.

On the basis of gathered supporting documents, conducted substantiation and the legal assessment of the facts of the case, the Financial Arbitrator drew a conclusion that the institution had breached neither legislation nor contractual arrangements, and therefore the petitioner's petition for a refund of CZK 2,582.56 and CZK 250 was rejected.

The institution against which the dispute was raised	Bank
Subject matter of the dispute	Payments remitted to a different account
What the petitioner sought	Refund of CZK 151,485
Case description	
<p>The petitioner stated that, through his own Internet banking application, he had mistakenly remitted CZK 151,485 from his account to an account other than he had intended. The petitioner immediately realised his mistake and, in a minute, filed a complaint of the wrong payment with the institution that managed his account as well as with the institution that managed the account to which the petitioner had mistakenly remitted the money. The petitioner also stated that, instead of the beneficiary's institution returning the payment, it had illegally used the money for its benefit, as repayments of a loan and overdue interest despite being aware that the money did not belong to its client.</p>	
Dispute resolution	Proceedings discontinued (due to extinction of the grounds)
Justification	
<p>The institution objected that a mistaken remittance of money to a wrong account did not give rise to any legal relationship between the payer who had mistakenly remitted the sum from his account and the institution that managed the beneficiary's account to which the sum had been credited. Thus the return of a mistakenly remitted sum has to be claimed solely from the account owner – the beneficiary. The institution also stated that it had sent requests to the beneficiary to return the sum, but the beneficiary had not reacted or had repeatedly failed to collect those requests. As the institution had no order or consent from the beneficiary and this was no rectifying settlement either, the institution could not remit the payment in favour of the petitioner.</p> <p>In addition, the institution sees as irrelevant the petitioner's allegations that the institution has illegally used the sum for its benefit because, while debiting the money, the institution was not aware that the money might have been remitted to the beneficiary's account by mistake; moreover, this would have no effect on the right of collection from the account because the remittance of money to the account gave rise to the account owner's claim due from the institution regardless of who and for what reason has remitted to the money to the account and whose money it was. Not even the fact that the institution, in compliance with the arrangement between the institution and the beneficiary, collected the sum concerned for the repayment of the account owner's loan may oblige the institution to return such money to the person who has remitted it to the account. Likewise, not even any other creditor of the account owner could be sued to return the sum if the beneficiary mistakenly redeemed his or her debt from money remitted to the beneficiary's account by mistake.</p> <p>During the proceedings, the Financial Arbitrator instructed the petitioner that, in his case, he would have to apply to a court of law with a legal action for unjust enrichment against the beneficiary of the mistakenly remitted money. The Financial Arbitrator explained to the petitioner that a dispute like that could not be conducted before the Financial Arbitrator, as this was not a dispute between the petitioner and an institution as a payment service provider.</p> <p>The Financial Arbitrator discontinued the proceedings because the petitioner withdrew his petition for the proceedings before the Financial Arbitrator.</p>	

The institution against which the dispute was raised	Bank
Subject matter of the dispute	Illegitimately charged fee for incoming payment
What the petitioner sought	Refund of US\$ 19.01
Case description	
According to the petitioner, he remitted \$ 24.24 from his account managed by another company to his current account managed by the institution, but the institution only credited \$ 5.23 while \$ 19.01 was likely debited by the company which the institution is a division of, i.e. the fee was charged for an incoming payment.	
Dispute resolution	Petition rejected
Justification	
<p>The Financial Arbitrator examined whether the institution had been authorised to charge a fee for incoming payment and whether it really charged it. This also implied the question about the amount of the payment transaction credited to the account of the institution (i.e. the beneficiary's payment service provider) by the payer's payment service provider. According to the price list, incoming national as well as cross-border payments are free.</p> <p>Reviewing the swift message and the statement of the current account for the relevant month, the Financial Arbitrator also found that the fee for the remitted amount of \$ 24.24 had been charged to the petitioner by the payer's payment service provider, as the institution had received \$ 5.23 from the payer's payment service provider. This was also evidenced by the details of the disputable payment transaction specified in the account statement, notably the data "type of fee: SHA". It is a method of distributing fees associated with the execution of a payment transaction between the payer and the beneficiary. "SHA" means that the payer pays the charge required by his or her payment service provider while the beneficiary pays the charge required by his or her payment service provider (i.e. payment sharing).</p> <p>The swift message reliably proved that \$ 5.23 had been credited to the institution's account, and this sum was subsequently credited to the petitioner's current account managed by the institution.</p> <p>The Financial Arbitrator had to state that, in compliance with the account agreement, the bank had not charged any fee to the petitioner and had duly transferred the amount of the payment transaction to the petitioner's account, and thus had not breached a statutory obligation or a contractually assumed obligation in relation to the petitioner.</p>	

The institution against which the dispute was raised	Bank
Subject matter of the dispute	Unauthorised ATM withdrawals
What the petitioner sought	Refund of CZK 53,284.58, including related fees
Case description	
<p>The petitioner stated that, after returning from her holiday in Tunis, she found out at the Prague airport that unauthorised withdrawals had been made from her account. She blocked her card straight from the airport. The petitioner stated that she had constantly carried the payment card with her (i.e. kept it under supervision) in a purse and a handbag, had not disclosed her PIN to anyone and had not kept her PIN noted down anywhere.</p> <p>The petitioner disagreed with the idea that the withdrawal had been made in the presence of her original card – a chip-based withdrawal. The withdrawals were made repeatedly, with the statement of account indicating attempts at a withdrawal up to the daily limit.</p>	
Dispute resolution	Petition rejected
Justification	
<p>Using the evidence gathered and taken, the Financial Arbitrator found that the physical presence of the card had been registered for all of the transactions made, i.e. there were records of reading the card chip. Thus the Financial Arbitrator concluded that the countered withdrawals had been made using the payment card. The Financial Arbitrator also ruled out what is known as “skimming”, i.e. the fabrication of a payment card duplicate to be possibly used in lieu of the original card, as the Financial Arbitrator is not aware of any credible evidence of a successful duplication of the chip technology. The personal identification number (PIN) was always entered for all withdrawals at the first attempt. PIN is and should be known to the cardholder only. In addition, the Financial Arbitrator is not aware that the PIN could be obtained from the payment card in any way.</p> <p>If the payment card was used for the disputable ATM withdrawals, with its PIN successfully entered at the first attempt, and unless the disputable withdrawals were made by the petitioner herself, the only conclusion that the Financial Arbitrator could make is that the withdrawals were made by an unspecified third party with easy access to the payment card as well as to the PIN, or by a person with easy access to the payment card and knowing the PIN.</p> <p>The Financial Arbitrator considers a disclosure of the PIN to an unauthorised person by, for example, watching the petitioner enter her PIN during a card payment at a merchant, to be unlikely because the first disputable ATM withdrawal took place as late as the fifth day after the petitioner’s ATM withdrawal. In such events of misusing a payment card and its security features, the payment card itself is usually stolen very soon after, with this followed by a series of withdrawals, usually up to the payment card limit or the account balance, or until the payment card is blocked. The aforementioned scenario is also evidenced by the fact that the disputable ATM withdrawals were made repeatedly for several consecutive days, at dinnertime and afterwards according to the petitioner, albeit she says that she constantly carried the card with her or kept it under her supervision in a purse and a handbag. By contrast, no other withdrawal and an attempt at a withdrawal took place while the petitioner was returning to the Czech Republic.</p> <p>By the substantiation conducted, the Financial Arbitrator drew a conclusion that the petitioner had been grossly negligent, as she had failed to take adequate actions to protect her card and the personalised security features (PIN) of the payment card.</p>	

The institution against which the dispute was raised	Bank
Subject matter of the dispute	Failure to dispense cash from an ATM
What the petitioner sought	Refund of CZK 13,761.32
Case description	
<p>The petitioner stated that, while trying to withdraw HRK 2,000 (Croatian kunas) from an ATM on the island of Hvar, the cash had only been dispensed after two failed attempts, with three transactions for HRK 2,000, i.e. $3 \times \text{CZK } 6,880.66$, subsequently debited from his account. The petitioner stated that he did not check his account statements on a regular basis because he received SMS messages every time a debit or credit transaction occurred in his account. He said that, while on holiday in Croatia, he had certainly not received the SMS message twice, i.e. for two withdrawals, which the petitioner subsequently complained of. The petitioner complained of the wrongly debited withdrawals after five months, as he detected them accidentally while he was looking for the exchange rate of the Croatian currency.</p>	
Dispute resolution	Petition rejected
Justification	
<p>Through its investigation, the Financial Arbitrator found that this was a withdrawal of an amount of money from a foreign bank's ATM in a foreign currency. A withdrawal from a foreign ATM is a money conversion. The petitioner acted as both the payer and the beneficiary. He acted as the payer because of being the owner of the account from which the money withdrawn by the payment card was debited. The corresponding contractual partner in this relationship was the institution against which the dispute had been raised. The petitioner concurrently acted as the payment service beneficiary because he executed the money transaction – an ATM withdrawal. Here the corresponding contractual partner was the foreign bank that ran the ATM concerned. This gives rise to a one-off agreement on payment services between the petitioner as the beneficiary and the foreign bank, by which the foreign bank undertakes to execute a single ATM withdrawal transaction for the petitioner.</p> <p>The institution met its statutory obligation to the petitioner (payer) by debiting the money from his account to execute the payment transaction properly and in good time. Then the foreign bank, as the beneficiary's provider, was obliged to make the money available to the beneficiary – 'prepare it for collection', and if the ATM failed to dispense the money, the petitioner should have complained with that foreign bank. The Financial Arbitrator found that the sum had been settled correctly and in good time and the money in the bank account to which the petitioner's card had been issued had been duly debited. Furthermore, the Financial Arbitrator dealt with the question as to whether or not the institution was entitled to refuse to handle the petitioner's complaint, referring to the fact that, under contractual terms, the 30-day period for filing a complaint had expired. The institution could do so, but only while referring to the fact that the period of 'without undue delay' had expired.</p> <p>The petitioner was staying abroad, used the services of a withdrawal from an ATM that behaved in a non-standard way, yet the petitioner failed to check his account statement, demonstrably delivered to him, once he returned home. The Financial Arbitrator believes that the petitioner thus breached the ordinary (average) level of cautiousness that may be required from a client for whom an account, with an issued payment card, has been opened and the client uses the card in foreign ATMs. The petitioner did not even demonstrate that his SMS service, notifying him of successful authorisations of withdrawals by his payment card, had been active during the period concerned.</p>	

The Financial Arbitrator stated that, in relation to the petitioner and his petition, the institution had not breached a legal obligation imposed on it or its contractually assumed legal obligation.

The institution against which the dispute was raised	Bank
Subject matter of the dispute	Failure to dispense cash from an ATM
What the petitioner sought	Refund of CZK 4,000
Case description	
<p>The petitioner stated that, when he had wished to withdraw the cash of CZK 15,000 from an ATM of an institution other than the institution managing his account, the ATM responded with a negative system message and failed to dispense cash. Afterwards, the petitioner attempted to withdraw CZK 4,000. The ATM did not dispense the sum for the second time either and the ATM display showed that the transaction could not be executed. However, the amount of CZK 4,000 was subsequently debited from the petitioner's account.</p>	
Dispute resolution	Proceedings discontinued (amicable settlement)
Justification	
<p>The institution from whose ATM the petitioner withdrew the cash told the Financial Arbitrator that, on the same day, an accidental passer-by had notified the branch employees of cash remaining in the ATM's cash tray. Members of the branch staff removed the cash, counted it at the cash desk and made a record on the occurrence of the cash difference of 40 pieces of banknotes in the nominal value of CZK 100, i.e. a total of CZK 4,000. After the institution that owned the ATM and the institution that managed the petitioner's account settled the complaint together, the petitioner's institution refunded the sum under complaint to the petitioner's account.</p> <p>The Financial Arbitrator discontinued the proceedings because the petitioner withdrew his petition for the proceedings before the Financial Arbitrator, as the dispute was settled amicably during the proceedings between the petitioner and the institution.</p>	

The institution against which the dispute was raised	Bank
Subject matter of the dispute	Cancellation/revocation of a foreign payment order
What the petitioner sought	Damages of CZK 38,200
Case description	
<p>According to the petitioner, he placed a payment order to pay the purchase price of a vehicle in CZK in favour of a beneficiary's account managed by a bank based abroad. Afterwards, on the same day at approximately 10 p.m., the petitioner entertained suspicion that he had become a victim of fraud and that the offer to buy a vehicle was just a pretext to lure money from him, and therefore he contacted the bank to revoke the payment order. The petitioner objected that, under law and under the bank's contractual terms, foreign transfers are executed within the deadline of D+3 while the petitioner had cancelled the transaction within the deadline of D+0. The petitioner himself did not contact the foreign bank, and neither did the bank, according to his statement in the petition, although he asked the bank in writing as well as orally to do so at least 15 times; the bank relied on sending a sort of unaddressed system messages, without communicating with the foreign bank by phone or e-mail. The petitioner stated that, as a result of the bank's inadequate assistance, the execution of the payment order and the subsequent collection of the money by an unknown person and consequently the completion of a crime could not be prevented.</p>	
Dispute resolution	Petition rejected
Justification	
<p>According to the Financial Arbitrator's findings, the petitioner chose the means of direct electronic banking to place his payment order and concurrently failed to set a deferred payment, and therefore the payment order was accepted once it was placed. At the time of his first attempt to revoke the payment order, the petitioner's right to revoke the payment order has already expired. The Financial Arbitrator also dealt with the question of calculating the deadlines to execute payment transactions. The Financial Arbitrator had to state that the deadline to execute the transaction was the maximum deadline and the bank was authorised to execute the transaction earlier, unless no circumstance prevented that. The setting of maximum deadlines in both the Payments Act and the follow-up contractual documents serves as a guarantee of executing a payment transaction within the set deadline rather than the setting of the accurate time of a payment transaction execution. Hence the Financial Arbitrator drew a conclusion that the bank had proceeded correctly by executing the payment order placed by the petitioner. The Financial Arbitrator did not even see the bank's steps after the bank receiving the request to revoke the payment order as being in contravention of the general precautionary obligation governed by the Civil Code. The Financial Arbitrator also found that the bank, although the petitioner's payment order had not been revoked before receipt (the petitioner's request to revoke the payment order was received on the second day at 8:04 a.m.), on the same day at 8:21 a.m. the bank sent a request that the foreign bank return the payment and at 1:41 p.m. the bank sent another request, specifying that the payment was fraudulent. The foreign bank responded that they were processing the request. Afterwards, the bank sent more reminders. The foreign bank subsequently refused to return the remitted payment because the money had been withdrawn from the beneficiary's account and the bank consequently closed the case. The Financial Arbitrator considers the form chosen by the bank to communicate with the foreign bank, i.e. swift messages, to be standard and adequate. Communication via swift messages is a globally standardised communication method between financial institutions, notably banks, and thus can be seen as commensurate with, i.e. equally valid and targeted as communication via e-mail or telephone.</p>	

The Financial Arbitrator also had to draw a conclusion that the bank had not been obliged to tell the petitioner the name of the beneficiary's account owner because such obligation was incumbent upon the bank neither under universally binding legislation nor under a contractual relationship with the petitioner.

The institution against which the dispute was raised	Small-scale payment service provider
Subject matter of the dispute	Unauthorised payment transactions
What the petitioner sought	Refund of payment transactions totalling CZK 15,819.09
Case description	
<p>The petitioner explained the reasons for his petition as follows: from 8 May 2011 to 11 May 2011 at night between 11:00 p.m. and 12:00 a.m., payment transactions debiting his account with a total of CZK 9,939.17 were executed in favour of an Internet betting operator. The petitioner stated that his phone number had been misused because he himself had not ordered such transactions, whether by SMS or by phone. Once the petitioner detected from SMS messages that the transactions had been executed from his account, he immediately disabled m-payments on the institution's website on 21 May 2011 and, on the same day, received a reply that these would be blocked as of 1 June 2011; thus the institution allowed for additional m-payments, which were executed from 22 May 2011 to 23 May 2011. Then the petitioner blocked all services in his phone. Once the phone was blocked, the institution notified the petitioner by SMS to pay CZK 9,939 for the former transactions, executed from 8 May 2011 to 11 May 2011, and CZK 5,879.92 for the latter transactions, executed from 22 May 2011 to 23 May 2011.</p>	
Dispute resolution	In respect of CZK 9,939.17, the petition was rejected; in respect of CZK 5,879.92, the proceedings were discontinued because the petitioner withdrew his petition (amicable settlement)
Justification	
<p>After looking into the institution's business terms governing m-payment, the Financial Arbitrator found that m-payments on the Internet could only be technically made using personalised security features, whether a SIM card using a subscriber telephone number, or a login name and password chosen by the petitioner. The Financial Arbitrator was not authorised to assess the 'security' of the m-payment system – given, in particular, the binding acceptance of the system by the petitioner. In that situation, the Financial Arbitrator saw the petitioner as being responsible for breaching the obligations – because the protection of personalised security features was his principal obligation. If they were disclosed, albeit as a result of third party's conduct under criminal law, the liability for their disclosure under private law may not be transferred to the institution. Hence the Financial Arbitrator also stated that the petitioner, by failing to protect his personalised security features of the payment instrument, had grossly breached his obligation incumbent upon him by the Payments Act, and therefore bore the full loss incurred by the petitioner from the payment transactions executed from 8 May 2011 to 11 May 2011. However, the Financial Arbitrator saw a breach of the institution's obligation in the institution's steps taken after the institution had been notified of the blocking, i.e. the blocking request. Doing so, the petitioner met his lawful obligation to notify. The institution's arguments that the m-payment deactivation is often misused to circumvent the limit of possible payments are inappropriate, as they contravene the Payments Act as well as general terms and business terms of the institution.</p> <p>The Financial Arbitrator drew a conclusion that the institution had breached its legal obligations, and therefore it upheld the petitioner's petition for a refund of CZK 5,879.92 in payment transactions. The Financial Arbitrator imposed the obligation on the institution to return the money to the petitioner, and set a reasonable deadline for this.</p>	

The institution raised objections to the Financial Arbitrator's award; during the objection procedure, the institution amicably settled the dispute with the petitioner.

The institution against which the dispute was raised	Credit company
Subject matter of the dispute	Leasing agreement
What the petitioner sought	Withdrawal from a leasing agreement
Case description	
<p>According to the petitioner, he entered into a leasing agreement at a product demonstration. The agreement was concluded for goods at the contractual price of CZK 19,999, which the petitioner had to repay by the first leasing instalment of CZK 3,900 and the instalments of CZK 1,120 for 20 months. After the end of the demonstration, the petitioner took over the goods and paid CZK 100. Before leaving the place of demonstration, the petitioner completely changed his mind and told the institution representatives that he wished to withdraw from the agreement. The institution representatives told him that the agreement had already been registered and thus he could not withdraw from it. Although the amount of instalments was specified in the leasing agreement, the petitioner was told that the instalments would be agreed upon the delivery of the remaining goods to his address. The petitioner says that he did not carry his glasses with him and the airless room did not make him feel quite good to be able to read the agreement and the standard information on consumer credit on the premises. None of the institution representatives explained the consumer credit information to the petitioner on the premises.</p> <p>The remaining goods were sent to the petitioner by post and the petitioner failed to collect them. Postal orders were also sent to him by post. After a telephone conversation with a member of the institution staff, the petitioner sent the goods back and also sent a written withdrawal from the agreement. The institution let the petitioner know that it did not accept the withdrawal from the agreement and that it was resending the goods to the petitioner. The petitioner again failed to collect the parcel. Afterwards, the institution reminded the petitioner to pay the amounts outstanding.</p>	
Dispute resolution	Proceedings discontinued (amicable settlement)
Justification	
<p>During the proceedings, the Financial Arbitrator invited the institution to comment on the petitioner's petition to commence proceedings and concurrently invited both parties to reach an amicable solution.</p> <p>The institution objected that the agreement was valid because the petitioner had failed to use the 14-day statutory period to withdraw from the agreement. The institution regards an amicable settlement with the petitioner as possible if the petitioner pays the first leasing instalment of CZK 3,900.</p> <p>The petitioner accepted the amicable settlement of the dispute and entered into an agreement to terminate the leasing agreement with the institution, whereby he undertook to pay the first leasing instalment in two monthly payments.</p> <p>The Financial Arbitrator discontinued the proceedings because the petitioner withdrew his petition for the proceedings before the Financial Arbitrator, as the dispute was settled amicably during the proceedings between the petitioner and the institution.</p>	

The institution against which the dispute was raised	Credit institution
Subject matter of the dispute	Reminder of an unpaid instalment
What the petitioner sought	Refund of an illegitimately charged CZK 226 as contractual penalty and a reminder sent
Case description	<p>According to the petitioner, a reminder of an unpaid credit instalment for March worth CZK 329 + CZK 100 for sending, i.e. CZK 429 in total, was sent to the petitioner on 3 April 2012. The petitioner paid the instalment on 12 April 2012. Although the payment was credited to the institution's account on 13 April 2012, the petitioner received another reminder on 16 April 2012 worth CZK 984 (CZK 329 as the March credit instalment, CZK 100 for sending, CZK 200 as the penalty for failure to pay the March instalment, CZK 26 as the 8 % penalty interest on the amount outstanding for March and CZK 329 as an April instalment). After a telephone conversation with the institution's telephone operator, the petitioner was told that, as the amount of CZK 429 had not been paid immediately, the petitioner also had to pay the difference of CZK 555; the petitioner paid the difference but, in his petition for the proceedings before the Financial Arbitrator, he requested a refund of CZK 226. The petitioner believes that the institution is not entitled to this amount of CZK 226 (CZK 200 as the penalty for failure to pay the March instalment, CZK 26 as the 8 % interest on the amount outstanding) because the instalment was credited to the institution's account on 13 April 2012, thus being duly paid.</p> <p>The institution objected in response to the Financial Arbitrator's request that, as the petitioner had failed to pay the amount of CZK 429 without undue delay after receiving the reminder, the amount was not credited to the institution's account until Friday, 13 April 2012. This institution's account serves as a collective account for most instalments by clients, with tens of thousands of instalments accumulating in it every day and, during night processing, the instalments are subsequently credited to the credit accounts of the respective clients according to the specified variable symbols of those instalments. The petitioner's instalment that was paid to the institution's bank account on 13 April 2012 was credited to the client's credit account (due to the weekend delay) on Monday, 16 April 2012, i.e. after 15 April 2012, a date when another monthly instalment is charged. Unless previous instalments are paid as of that date, the institution's information system automatically generates and sends a reminder, including the relevant fee and, where appropriate, the agreed contractual penalty. However, due to the upcoming weekend, the institution's information system generated another reminder, including the fee of CZK 200 and the contractual penalty of CZK 26, as early as 13 April 2012.</p> <p>During the proceedings before the Financial Arbitrator and after reviewing the petitioner's case, the institution stated that CZK 429, credited to the institution's bank account on 13 April 2012, had been paid properly and in good time, and CZK 226, paid as the fee for the second reminder and the contractual penalty, had been immediately returned to the petitioner.</p>
Dispute resolution	Proceedings discontinued (amicable settlement)
Justification	<p>The Financial Arbitrator discontinued the proceedings because the petitioner withdrew his petition for the proceedings before the Financial Arbitrator, as an agreement had been reached during the proceedings between the petitioner and the institution, and the institution had already satisfied his request.</p>

The institution against which the dispute was raised	Credit institution
Subject matter of the dispute	Withdrawal from a purchase agreement
What the petitioner sought	Refund of CZK 15,216 paid to the institution, imposition of the obligation on the seller to accept a vehicle from the petitioner and imposition of the obligation on the seller to pay CZK 39,298 to the petitioner and CZK 80,500 to the institution
Case description	<p>According to the petitioner, he entered into a linked credit agreement with the institution to finance a passenger car. The petitioner acquired the title to the subject matter of the financing on the basis of a purchase agreement with the seller. After a test drive, the petitioner paid CZK 34,500 of the purchase price in cash and CZK 80,500 of the purchase price through a credit from the institution. The petitioner says that, on his way from the used-car dealership, the passenger car started to show defects that prevented the use of it a few months later, and therefore the petitioner filed a complaint with the seller. After the failure to eliminate the defects, the petitioner withdrew from the purchase agreement in a letter addressed to the seller. In a letter addressed to the institution, the petitioner withdrew from the credit agreement because his complaint of the passenger car's defects had not been accepted, and requested that the institution return the previously paid credit instalments of CZK 15,216. Furthermore, the petitioner sent the institution his notice of withdrawal from the purchase agreement and again requested that the institution return the previously paid credit instalments of CZK 15,216. Afterwards, however, the petitioner only received 'threatening letters' from the institution.</p>
Dispute resolution	Proceedings were discontinued (incompetence and inadmissibility)
Justification	<p>In the section where the petitioner sought the imposition of the obligation on the seller to accept the car from the petitioner and where he sought the imposition of the obligation on the seller to pay CZK 39,298 to the petitioner and CZK 80,500 to the institution, the Financial Arbitrator considered the petition to be inadmissible because the dispute did not lie within the Arbitrator's competence. Activities of a seller in selling a passenger car do not constitute the offering, providing or intermediation of consumer credit, albeit a portion of the purchase price received by the seller from the petitioner was paid through a credit agreement entered into with an institution, i.e. with a creditor based on a consumer credit. Thus the dispute between the petitioner and the seller is not a dispute between a person acting as a creditor or, where appropriate, as an intermediary and a consumer in respect of providing or intermediating consumer credit under consumer credit legislation.</p> <p>In the remaining section, where the petitioner's petition sought to impose an obligation on the institution to return the paid amount of CZK 15,216 to the petitioner, the petition was also inadmissible because the institution had demanded the payment of the claim from the petitioner under arbitration proceedings, which had been completed by issuing an arbitration award.</p> <p>The Financial Arbitrator discontinued the proceedings because the petition was inadmissible, as the dispute partly failed to lie within the Arbitrator's competence and partly the case had been decided in arbitration proceedings.</p>

The institution against which the dispute was raised	Credit institution
Subject matter of the dispute	Disproportionate amount of contractual remuneration for arranging a revolving credit
What the petitioner sought	Declaration that the contractual remuneration arrangement is invalid
Case description	<p>The petitioner stated that, in a café of a department store, she had very quickly signed a credit agreement for CZK 46,000 with a representative of the company, with the final sum to be paid by the petitioner under the agreement amounting to CZK 71,972. When the meeting was over, the petitioner realised that the company representative had given her no copy of the documents signed. After the company representative refused, on the phone, to give her the documents signed, the petitioner called the company to ask for sending the copies of the documents. The company sent the petitioner a signed revolving credit agreement for CZK 50,000 with contractual remuneration of CZK 69,052 for granting the credit and the final sum to be paid by the petitioner amounting to CZK 119,052. The petitioner said that she had never signed that agreement and that her signature in the agreement had been a scanned signature. Afterwards, the company sent the petitioner an amendment to the revolving credit agreement, where the sum to be paid had changed to CZK 46,000 and the contractual remuneration had changed to CZK 71,972.</p> <p>During the proceedings before the Financial Arbitrator, the petitioner changed her statement that she had never signed the agreement, and sought a declaration that the contractual remuneration arrangement is invalid.</p>
Dispute resolution	Proceedings discontinued (amicable settlement)
Justification	<p>After the Financial Arbitrator pointed out that the contractual remuneration arrangement, which governed the cost of the money, i.e. interest on the credit, could, in view of the amount of the remuneration and the length of maturity of the credit, be seen as an invalid arrangement because of being contrary to principles of morality, the credit company amicably settled its dispute with the petitioner.</p> <p>The Financial Arbitrator discontinued the proceedings because the petitioner withdrew her petition for the proceedings before the Financial Arbitrator, as the dispute was settled amicably during the proceedings between the petitioner and the institution.</p>

The institution against which the dispute was raised	Bank
Subject matter of the dispute	Entry in the bank credit bureau
What the petitioner sought	Entry deletion
Case description	
<p>The petitioner stated that, when he had started to cooperate with a financial consultancy company in 2010, the institution had opened a current account and a savings account for him on the basis of that cooperation. These accounts were managed for the petitioner free of charge until the end of his cooperation with the financial consultancy company in 2011. In January 2012, the petitioner received a notification from the institution about the occurrence of an unauthorised overdraft of CZK 302 charged for the management of his accounts. The petitioner personally paid the amount at a branch of the institution and concurrently tried to close both accounts, but he was said that only the financial consultancy company could close them. In March 2012, the petitioner received another notification about the occurrence of an unauthorised overdraft of CZK 183.13 and a fee of CZK 30 for sending the notification. The petitioner failed to pay the amount. In May 2012, the institution sent him a written notification that the bank withdrew from the agreement as of 31 May 2012 and requested that the petitioner pay his liability of CZK 419.61 to the institution. The petitioner paid the sum within the deadline specified. However, the payment was not included in the account statement, and the petitioner did not check this fact until his application for a mortgage credit was rejected due to his record in the bank credit bureau, an excerpt of which showed him that he was registered as a debtor of the institution for June 2012 due to his debt of CZK 536. The petitioner tried to resolve the situation by applying to the institution for his deletion from that bureau. The institution replied that the application had been rejected and that only a certificate of no debt could be issued to him.</p>	
Dispute resolution	Proceedings discontinued (amicable settlement)
Justification	
<p>After the Financial Arbitrator asked the institution for its comment, the institution contacted the petitioner with an apology and a message that the institution had applied to the bank credit bureau for a backward deletion of the wrongly reported data about the petitioner.</p> <p>The Financial Arbitrator discontinued the proceedings because the petitioner withdrew his petition for the proceedings before the Financial Arbitrator, as the dispute was settled amicably during the proceedings between the petitioner and the institution.</p>	

The institution against which the dispute was raised	Credit institution
Subject matter of the dispute	Credit account management fee
What the petitioner sought	Refund of CZK 50 as the fee for managing a credit account
Case description	
<p>The petitioner considered the arrangement that obliged him to pay the fee for managing a credit account to be invalid for the following reasons:</p> <ul style="list-style-type: none"> • It is not evident from the credit agreement what the credit management includes and what the rights and obligations of the contracting parties under such contractual arrangement are, • The petitioner believes that the fee arrangement is contrary to the requirement of good faith because, to the consumer's disadvantage, it involves a significant imbalance in the rights and obligations of the parties, when there is actually no credit management, and thus the petitioner pays for a service that is not provided to him, • The petitioner was misled while the fee was arranged, when he believed that an adequate service would be provided to him for such payment, but no such service exists. 	
Dispute resolution	Proceedings discontinued
Justification	
<p>The institution notified the Financial Arbitrator during the proceedings that it had decided to settle the dispute amicably, and had paid the required amount of CZK 50 to the petitioner.</p> <p>The Financial Arbitrator discontinued the proceedings because the petition had evidently become groundless. The Financial Arbitrator did not deal with the subject matter of the proceedings; it only found whether or not it was competent to decide the dispute.</p>	

The institution against which the dispute was raised	Credit institution
Subject matter of the dispute	Advance payments under a credit agreement
What the petitioner sought	Refund of CZK 7,200
Case description	
<p>The petitioner justified her petition submitted to the Financial Arbitrator as follows: In relation to the credit agreement that she has entered into with the institution, it paid CZK 7,200 in cash as a refundable fee to a representative of the institution and obtained a receipt issued to her.</p> <p>After her withdrawal from the agreement, the institution failed to return that sum to the petitioner, even though the petitioner requested that the institution return the fee.</p> <p>The institution objected that, under its general business terms, the refundable fee was collected for the preparation of a draft agreement, as set out in the credit agreement, and the beneficiary agreed to this. The fee is set as a fixed amount depending on product, and primarily covers the institution's costs of drawing up a draft agreement, vetting of the beneficiary as applicant for a credit, assessment of the applicant's property status and ability to repay the credit, or the costs of a personal visit by a sales representative of the institution to a location chosen by the beneficiary. The beneficiary becomes entitled to the refund of this refundable fee if the beneficiary draws down the credit and repays 12 credit instalments properly, in good time and flawlessly, if the beneficiary has submitted a draft agreement and if this refundable fee was paid properly and in good time.</p>	
Dispute resolution	The Financial Arbitrator decided that the institution was obliged to pay the petitioner CZK 7,200 and pay a fine of CZK 15,000
Justification	
<p>Pursuant to the Act on Consumer Credit, the consumer may withdraw, in writing, from an agreement under which a consumer credit is arranged, without giving reasons, within 14 days from the date of entering into the agreement. The Financial Arbitrator considers it established that the petitioner in the dispute made her withdrawal properly and in good time.</p> <p>The Financial Arbitrator decided that the institution was obliged to return the refundable fee to the petitioner because, in the event of the withdrawal from an agreement entered into under the Act on Consumer Credit, the creditor is not entitled to require any performance from the consumer other than interest for the period for which the consumer kept the money and payments of non-refundable fees paid by the creditor to public administration authorities or to other parties responsible for public administration.</p> <p>As the aforementioned enumeration of the fees to which the creditor becomes entitled is exhaustive, no other performance may be required from the consumer, and the creditor is therefore obliged to return all of the already paid fees and payments to the petitioner.</p> <p>The Financial Arbitrator imposed the obligation on the institution to return the requested sum to the petitioner and concurrently imposed a fine in the minimum amount of CZK 15,000 because the Arbitrator upheld the petitioner's petition.</p> <p>The institution did not raise objections to the Financial Arbitrator's award, and met both obligations imposed in the decision.</p>	

The institution against which the dispute was raised	Credit institution
Subject matter of the dispute	Revolving credit
What the petitioner sought	Establishment of the correctness of required payments and remission of penalties
Case description	
<p>According to the petitioner, she entered into a revolving credit agreement with the institution in 2008, with the subject matter of performance not exceeding CZK 18,198 (i.e. CZK 12,000 as the credit principal and CZK 6,198 as the intermediary's remuneration). She continued to meet her liabilities arising from that agreement until 2010, when the petitioner was notified by the institution that the credit was repaid and closed.</p> <p>The petitioner also states that, in the early summer of 2009, she obtained almost CZK 7,000 from the institution although she had not entered into another revolving credit agreement with the institution. In spite of her aforementioned conviction, the petitioner received an amendment to the revolving credit agreement. In 2010, the petitioner received another message that this credit had also been repaid and closed.</p> <p>Then, in 2010, the petitioner again contacted the institution in order to enter into a credit agreement for CZK 12,000. Being in a hurry, she only signed a "blank agreement form" on revolving credit, with the contracting process to be completed in a few days. No further meeting took place, and CZK 4,973 was credited to the petitioner's account without closer details. After the petitioner received a copy of her last concluded agreement, she found that its maximum performance was CZK 119,052. Given the evident divergence from the petitioner's intention, she immediately contacted the institution's sales representative to tell him that she had not intended to enter into an agreement for such a large amount. However, the response to her complaint was negative, and therefore the petitioner started to pay regular monthly instalments.</p> <p>In 2011, the petitioner received a letter from the institution to inform her that she had failed to meet contractual commitments arising from the agreement signed in 2010 and that all liabilities under that agreement had come due and, in addition to the outstanding credit principal, the petitioner was obliged to pay the penalisation invoices of CZK 11,372 and the contractual penalty of CZK 59,526.</p>	
Dispute resolution	Proceedings discontinued (inadmissible petition)
Justification	
<p>In its comment on the petition to commence proceedings before the Financial Arbitrator, the institution stated that an arbitration award, which had already become finally binding, had been issued in respect of the claims arising from the agreement entered into in 2010.</p> <p>Looking into the means of evidence presented, the Financial Arbitrator found that the agreement entered into in 2010 'refinanced' the liabilities arising from the revolving agreement entered into in 2008 and from the amendment to that agreement entered into in 2009, both of which consequently ceased to exist by being fulfilled.</p> <p>Based on the aforementioned facts, the Financial Arbitrator drew a conclusion that the petition was inadmissible because the case had already been decided in arbitration proceedings. The Financial Arbitrator discontinued the proceedings by a resolution because</p>	

the petition was inadmissible.

The institution against which the dispute was raised	Credit institution
Subject matter of the dispute	No interest on a credit if repaid within the agreed date
What the petitioner sought	Payment of CZK 2,230
Case description	
<p>The petitioner applied to the Financial Arbitrator with her petition regarding the payment of CZK 2,230, which she had made in favour of the institution after receiving its reminders even though she had repaid her credit with the institution properly and in good time. In her petition, the petitioner stated that, in order to pay a portion of the purchase price of IT equipment – a laptop – she had entered into a credit agreement with the institution, which included an arrangement that the credit was interest-free if repaid within the following month. However, as the petitioner received the proper payment details after as long as two months, she believes that her performance was made impossible during the interest-free period. Yet the petitioner tried to pay her debt by remitting the amount outstanding to the institution’s account without a variable symbol. Even though the petitioner sent the institution a copy of her payment order form, by which she had transferred the amount outstanding to the institution’s account, the institution did not recognise the repayment of her debt and continued to claim the payment of the amount outstanding from the petitioner.</p>	
Dispute resolution	Proceedings discontinued (inadmissibility)
Justification	
<p>The documentation presented as well as the petitioner’s comments made upon Financial Arbitrator’s request indicated that the petitioner was a natural person doing business under a trade licence and had bought the laptop for her business needs.</p> <p>As the Financial Arbitrator is competent to decide disputes between creditors or intermediaries and consumers while offering, providing or intermediating consumer credit, and the Financial Arbitrator Act defines consumer as a natural person not acting in the course of his/her business activity or in the course of the independent pursuit of his/her profession, the Financial Arbitrator drew a conclusion that the petition was inadmissible.</p> <p>The Financial Arbitrator discontinued the proceedings for inadmissibility because the dispute did not lie within its competence.</p>	

The institution against which the dispute was raised	Credit institution
Subject matter of the dispute	Fee for early repayment of a credit
What the petitioner sought	Termination of the credit agreement without paying the fee for early repayment of the credit
Case description	
<p>According to the petitioner, he entered into a credit agreement with the institution while buying a passenger car through an intermediary, who was concurrently the seller. The petitioner stressed to the intermediary while entering into the agreement that he wished to arrange a credit with an early repayment option at no fees or penalties. After a year, the petitioner asked the institution by phone about the amount outstanding, which he wished to repay early. The institution's operator told the petitioner that the outstanding amount of the credit was CZK 103,000. However, the credit amounted to only CZK 64,000. The operator also told the petitioner that he could repay the credit early but along with a credit processing fee, already included in the balance of the credit, and that the repayment and the termination of the credit relationship was not possible without that fee.</p> <p>According to the petitioner, the credit intermediary misled him by telling him wrong information about early repayment of the credit while arranging the credit.</p>	
Dispute resolution	Proceedings discontinued (lack of assistance)
Justification	
<p>The Financial Arbitrator requested that the petitioner eliminate the defects in his application within 15 days from the delivery of the Financial Arbitrator's request, as his petition failed to include the following:</p> <ul style="list-style-type: none"> • Information whether he had already repaid the credit; • Means of evidence or offers of evidence of being misled by the intermediary and of being told wrong information and credit parameters. <p>Furthermore, the Financial Arbitrator requested that the petitioner specify exactly what he was seeking by the petition submitted, i.e. whether he was seeking the declaration that the arrangement on the amount of the credit processing fee was invalid.</p> <p>The petitioner failed to eliminate the defects in his petition within the specified deadline.</p> <p>The Financial Arbitrator discontinued the proceedings by a resolution because of the petitioner's failure to provide the required assistance despite the Arbitrator's request. The petitioner's attention was explicitly drawn to this in the Financial Arbitrator's request to eliminate the application defects.</p>	

The institution against which the dispute was raised	Bank
Subject matter of the dispute	Interest on late payments, including compensation for actual expenditure in relation to recovery of a non-performing credit
What the petitioner sought	Termination of the credit agreement, as the credit was duly repaid in line with its repayment schedule
Case description	<p>According to the petitioner, she entered into two identical credit agreements with the bank in 2005; the amount was CZK 50,000, to be repaid in 72 instalments of CZK 1,005 per month, with the last instalment to be made in 2011 in the amount of CZK 781.90. While making her payments, the petitioner was occasionally (approximately 10 times) delayed in repaying the credit, which the bank brought to her attention by a reminder, on the basis of which the petitioner made the payment. When the petitioner made her last payment in 2011, she believed that both of her credits had been repaid. However, the bank told her that she owed CZK 15,082.40 for 56 reminders and CZK 14,782.40 for 55 reminders respectively plus interest on late payments. The costs of the reminders ranged from CZK 10 up to CZK 310.</p> <p>The institution objected that, under the credit agreement, it was authorised to add interest on late payments as well as all interest costs (including compensation for actual expenditure), as carried out in relation to the credit agreement, to the credit principal. In both credit relationships, the petitioner failed to pay regular instalments under her credit agreement. Hence reminders were sent, including a warning request, sent as registered mail, to pay the amount outstanding under both credit agreements, with the petitioner being provided with a period to pay the outstanding amount of CZK 2,010. After the fruitless expiry of the deadline to pay CZK 2,010, both credits fell due.</p> <p>The institution also stated that it had striven to resolve the problem with the petitioner amicably (by written reminders, phone calls, SMS) before the claims fell due as well as after the credit fell due; afterwards, the claims were transmitted to a debt collection company for further recovery through out-of-court outsourcing.</p>
Dispute resolution	Proceedings discontinued (amicable settlement)
Justification	<p>The institution failed to prove that it had really sent all of the reminders indicated. The Financial Arbitrator, as part of the proceedings before the Financial Arbitrator, inter alia, found that the petitioner had been charged interest on late payments at the contractual rate.</p> <p>With a view to the amount of the reminder fee, the Financial Arbitrator concluded that the purpose of the reminder fee was to penalise the petitioner for her delay, i.e. the fee actually ensured that the petitioner would meet her contractual obligations but, in that event, the fee had not been arranged in accordance with law.</p> <p>The Financial Arbitrator told the institution the Arbitrator's legal opinion on the reminders and drew the institution's attention to the fact that the contractual amount of the interest on late payments contravened law and settled case-law in respect of consumers, i.e. also in respect of the petitioner. The institution subsequently applied to the Financial Arbitrator for a period in which it tried to settle the dispute with the petitioner amicably.</p>

The Financial Arbitrator discontinued the proceedings because the petitioner withdrew her petition for the proceedings before the Financial Arbitrator, as the dispute was settled amicably during the proceedings between the petitioner and the institution.

Annex 2 – Performance summary for selected state budget indicators (income and expenditure on the activities of the Financial Arbitrator and the Office of the Financial Arbitrator)

Indicator	Actual data	2012 budget					Actual data	% implemented
	As of 31 Dec 2011	Approved	Adjusted	Entitlements based on unused expenditure	Tied	Total	As of 31 Dec 2012	
Column	1	2	3	4	5	6	7	8(7:6)
Total income	688	140	140	x	x	140	48	34.2
of which:								
- received penalty payments and refunds of transfers	673	140	140	x	x	140	30	21.4
- other non-tax income	15	0	0	x	x	0	12	
- transfers from its own funds				x	x	0	6	
Total expenditure	7,488	18,000	17,823	1,326	-711	18,438	13,963	75.7
of which:								
- capital (investment) expenditure	772	2,100	1,450	64	-500	1,014	150	14.8
of which:								
- acquisition of intangible fixed assets	0	1,500	850	64		914	64	7.0
- acquisition of tangible fixed assets	772	600	600		-500	100	86	86.0
- others						0		
- current (non-investment) expenditure	6,716	15,900	16,373	1,262	-211	17,424	13,813	79.3
of which:								
- employee salaries and other payments	4,235	8,794	8,794	188	0	8,982	8,485	94.5
of which: employee salaries	4,117	8,254	8,254	188		8,442	8,235	97.5
other payments in total	118	540	540			540	250	46.3
- compulsory	1,400	2,990	2,990	64		3,054	2,909	95.3

insurance contributions								
- appropriation for Cultural and Social Needs Fund	41	83	83	2		85	85	100.0
- social security benefits	0					0	0	
- other current expenditure	1,040	4,033	4,506	1,008	-211	5,303	2,334	44.0
of which:								
- purchases of material	125	84	570	311		881	441	50.1
- purchases of water, fuel, energy	72	408	368	43	-44	367	217	59.1
- purchases of services	593	2,223	1,937	642	-162	2,417	1,230	50.9
of which: rent	114	72	72	36	-72	36	36	100.0
- other purchases	233	901	1,215	12		1,227	416	33.9
of which: repairs and maintenance	44	201	221			221	126	57.0
SW equipment for up to CZK 60,000	0	0	250			250	30	12.0
Travel expenses	167	660	524	12		536	77	14.4
- others	17	417	416		-5	411	30	7.3
Average number of employees in full-time equivalent	5	14	14			14	13	92.9
Average monthly salary in CZK	68,617	49,131	49,131			50,250	52,788	105.1
Other current expenditure per employee in CZK	208,000	288,071	321,857			378,786	179,538	47.4

Explanatory notes:

Columns 1-8 include:

- 1 – Actual income and expenditure on the Financial Arbitrator's activities from 1 July to 31 December 2011
- 2 – Approved state budget of income and expenditure on the Financial Arbitrator's activities in 2012
- 3 – Adjusted budget, i.e. budgetary measures taken during 2012
- 4 – Entitlements based on unused 2011 expenditure
- 5 – Expenditure tied under Government Resolution
- 6 – Total budget

- 7 – Actual income and expenditure on the Financial Arbitrator’s activities as of 31 December 2012
- 8 – Implementation of the state budget in %