



PRESS RELEASE

**High Court confirmed:
CKB Bank violated collective rights of consumers in Montenegro**

In Podgorica, 9 November 2021 – The High Court in Podgorica rejected as unfounded the appeal lodged by Crnogorska komercijalna banka AD Podgorica (CKB Bank) and delivered a judgment which found that CKB Bank violated Article 23 paragraph 2 of the Law on Consumer Credits, whereby it also violated the collective rights of consumers in Montenegro.

In the judgment rendered on 20 October 2021, the High Court upheld the first-instance judgment of the Basic Court (of 14 January 2021) and stated, *inter alia*, the following:

*“It has been found that the Defendant violated Article 23 paragraph 2 of the Law on Consumer Credits by setting a charge for early repayment of loans in the amount of 1% or 0.5% of the amount of the loan that is repaid early, violating thereby also the collective rights of consumers. **The Defendant is hereby prohibited** from setting, in contracts it offers to consumers, early loan repayment charge in percentages depending on the amount of the loan i.e. the amount of the loan that is repaid early **within 15 days from the date on which the judgment becomes final. The Defendant is prohibited from performing such or similar acts in the future”.***

As a reminder, the lawsuit against CKB Bank was filed by the Centre for Consumer Protection (CEZAP), through its attorney – lawyer Mr Miloš Vukčević, PhD – in January 2020. On 15 February, CKB Bank lodged an appeal with the High Court against the Basic Court’s judgment delivered in this case in favour of CEZAP. Having assessed the regularity and legality of the first-instance judgment, the High Court found that the claim in CKB Bank’s appeal was unfounded and, for that reason, it refused to reverse the decision of the Basic Court.

The judgment of the High Court is the first final judgment delivered in Montenegro on the lawsuit for the protection of the collective interests of consumers. It is **important** not only for a **broad range of consumers**, existing clients and all future **clients of CKB Bank** (and also, **indirectly, of other banks in Montenegro applying the same practice**), but, according to Mr Miloš Vukčević, PhD, CEZAP’s attorney, this judgment is **also important from the perspective of EU negotiations** of Montenegro as it confirms the preparedness of the Montenegrin judiciary to interpret legislation in accordance with the EU *acquis* and judgments of the Court of Justice of the European Union and, thus, to contribute directly to the process of temporary closure of Negotiation Chapter 28: Consumer and health protection.

In the reasons given for the judgment, the High Court confirmed the facts set out in the judgment of the Basic Court, according to which CKB Bank violated the collective interests and rights of consumers (its existing and potential clients) as it always charged the compensation for early



repayment of loans offered to consumers in the maximum amount of 1% or 0.5%, as the case may be (which has been established on the basis of CKB Bank's List of terms and conditions for loans for natural persons which has been in effect since 12 November 2018). Such CKB Bank's acts are contrary to Article 23 paragraph 2 of the Law on Consumer Credits specifying that this charge must be fair and objective and equal to justified costs that this Bank incurs in connection with the early repayment of loan.

Furthermore, the High Court held that CKB Bank also acted contrary to the provision of Article 23 paragraphs 3 and 4 of the Law on Consumer Credits, as it stipulated in contracts the maximum amount of compensation, without prior determination of fair and objective compensation for justified costs directly linked to the early repayment of loan. The Court stated that the fact that a person repaid a higher amount of loan cannot be "penalised" by paying a higher compensation in case of early repayment of loan, because that is not a default or delayed fulfilment of contractual obligations. Finally, the High Court reminded in the reasoning for the judgment that the mentioned provision of the Law on Consumer Credits sets out the maximum amount of compensation (in order to protect consumers from possible abuse) which is to be used by a creditor, i.e. the bank, as a point of reference up to which it is allowed to stipulate such compensation in a contract, which was not applied by CKB Bank but instead, in every particular case, CKB Bank stipulated in contracts the maximum amount of that compensation and, thus, placed in a less favourable situation the consumers who repaid higher amounts of loans.

According to the judgment, such CKB Bank's acts are contrary both to the Law on Consumer Credits and to Directive 2008/48/EU on credit agreements for consumers, as well as to the case-law of the Court of Justice of the European Union.