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Violation of the rights of consumers of financial services

Introduction. The article is devoted to the study of relationships that arise in the process of providing financial services by various financial institutions, as a result of which violations of consumer rights occur or may occur, taking into account current conditions.

Problem statement. The relevance of studying consumer rights violations in the field of financial services is undeniable in the modern world, especially with the growth of service users in cyberspace. However, the growing complexity of financial products and services requires a high level of consumer protection. Today, consumer rights violations in the financial sector can have serious consequences, including financial losses, loss of trust in financial institutions and socio-economic problems for consumers, and as a consequence, for the security of the financial system and the state.

Unresolved aspects of the problem. Thus, as seen, the study and analysis of problems related to violations of the rights of consumers of financial services and certain aspects of their prevention are relevant and important today. At the same time, we believe that the attention paid in previous studies is not comprehensive and requires consideration of certain aspects of violations of consumer rights and the search for appropriate solutions at the level of management, legislative initiatives, etc.

Purpose of the article. The goal of the work, in turn, is to develop a systematic approach to solving problems related to the violation of the rights of consumers of financial services.

Presentation of the main material. Particular attention is paid to such key problems as opaque contract terms, the impact of misleading advertising, excessive promises of investment returns is investigated, and the problem of illegal charges and commissions is also considered. Fraudulent actions and cybercrimes, such as the use of fraudulent schemes or forgery of documents. The article also considers the role of the Office for Financial Services Consumer Rights Protection. We use the following scientific methods: induction, deduction, comparative, systematisation method.

Conclusions. The study presents a systematic approach to solving the problem of violations of the rights of consumers of financial services. This, as expected, will relieve the judicial system, inspire confidence in potential consumers, promote technological progress, ensure the stability of the financial system, and ultimately establish Ukraine as a social, democratic, and legal state.

Keywords: *Consumer rights violations, financial services, opaque contract terms, deceptive advertising, unlawful charges, fraudulent actions, National Bank of Ukraine, mechanism for protecting consumers of financial services*

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Introduction. The Constitution of Ukraine defines a person as the highest social value [2]. Being in the position of a person as a consumer of services, in particular financial ones, such a person should have a high degree of protection, based on the above-mentioned constitutional postulate. The relevance of researching violations of consumer rights in the field of financial services is undeniable in today's world, especially with the growth of service users in cyberspace. Financial services have become a necessary component of social life, providing not only economic needs, but also social development. However, the growing complexity of financial products and services requires a high level of consumer protection. Today, violations of the rights of consumers in the financial sphere can have serious consequences, including financial losses, violations of trust in financial institutions, and socio-economic problems for consumers. Violations of the rights of consumers of financial services are actions or inactions of financial institutions that violate legally established rights and consumer interests. These may be actions that mislead, do not provide sufficient information, or impose unfavorable terms of the contract. Violation of consumer rights may also include withholding important information, improper charges or fees, fraudulent practices, and other improper practices that harm the financial well-being and interests of customers. Thus, as seen, the study and analysis of problems related to violations of the rights of consumers of financial services and certain aspects of their prevention are relevant and important today.

Literature review. It should be noted that the issue raised in our work has already received significant attention in various sources, both domestic and foreign publications, and this applies to both scientific literature and legislative acts, etc. In particular, the regulation of relations that are the subject of the study is of particular importance in a number of regulatory acts that, among other things, protect rights through the establishment of liability and other preventive measures: the Budapest Convention – is the first international document regulating the fight against cybercrime, the Council of Europe adopted that in November 2001, the Criminal Code of Ukraine, the Civil Code of Ukraine, etc. As our research in the field of consumer protection of financial services shows, careful attention is paid to these issues by: Kregul Yu.I., in particular, in his monograph of the same name, and the works of Mentukh M. are also interesting for reading. Relevant for today, in connection with the European integration of Ukraine, is the article by Hrebenyk V.I. dedicated to the guarantees of protection of the rights of consumers of banking services in the law of the European Union, as well as Odinak O. and Golota N., who rightly speak about the protection of the rights of consumers of financial services under martial law. However, it seems that the attention paid is not comprehensive and requires consideration of individual aspects of consumer rights violations and the search for appropriate solutions.

Purpose, objectives and research methods. Accordingly, the task of the article is to analyse the specifics of violations of consumer rights in the financial sector and existing approaches to violations of rights in this area. The aim of the work, in turn, is to develop a systematic approach to solving problems related to the violation of the rights of consumers of financial services. For this, we use the following scientific methods: general scientific method, induction, deduction, comparative method, systematisation method.

Research results. Indeed, Hrebenyk V.I. rightly points out that violations undermine consumer trust in financial institutions and can lead to significant financial losses [5]. As Klochko A. rightly writes, when characterizing crime in the financial sector, it is worth noting that institutions can be both objects of criminal attacks and instruments for achieving a criminal goal. This necessitates the classification of such crimes, which will allow us to identify certain features of their commission and determine recommendations for their prevention [6]. If we pay attention to criminal legislation, then: illegal actions with transfer documents, payment cards and other means of access to bank accounts, electronic money, equipment for their production (Article 200 of the Criminal Code), disclosure of commercial or banking secrets (Article 232 of the Criminal Code), etc. Special attention should be paid to some common criminal offenses, for example, fraud (Article 190 of the Criminal Code), misappropriation, embezzlement of property or taking possession of it by abuse of official position (Article 191 of the Criminal Code) [4]. As a rule, such offenses are identified as cybercrime. And they become particularly complex in the case of the participation of foreign entities. Here we should proceed from the CES No. 185 - Convention on Cybercrime [3].

Non-transparent contract terms in the financial sector are a serious problem that can lead to significant negative consequences for consumers. When financial institutions use complex and confusing terms in their contracts, it makes it difficult for customers to understand their rights and responsibilities. Consumers who sign such contracts may not be fully aware of all the terms and risks associated with the financial products or services they receive. This can lead to unjustified financial losses and undermine trust in financial institutions.

Hidden fees and additional fees are another form of opacity often found in financial contracts. Consumers may be pleasantly surprised by the initial terms of the contract, only to later discover that they have been charged additional costs that they were not informed about in advance. This may include account maintenance fees, early loan repayment penalties, or other hidden charges. Such practices not only cause financial losses to consumers, but also create a sense of deception and unfairness, which undermines the reputation of financial institutions [13].

The lack of transparency in financial contracts underscores the need for strict regulation and oversight by relevant government agencies. Consumer protection should include requirements for financial institutions to provide full and clear information about all terms and payments. This includes the use of plain language in contracts, as well as the obligation of financial institutions to inform consumers of all possible fees and additional costs before signing the contract.

In addition, consumers should be well informed about their rights and have access to resources to help them understand the terms of financial products. Financial literacy is a key factor in ensuring the protection of consumer rights. Education programs and information campaigns can significantly improve consumers' ability to evaluate contract terms and make informed financial decisions.

After all, transparency in financial contracts is the basis of trust between consumers and financial institutions. A lack of transparency undermines this trust and can have long-term negative consequences for the entire financial system. Ensuring transparency and fairness in financial contracts is a joint task of the state, financial institutions and consumers themselves. Only through joint efforts, it is possible to achieve a balance between the interests of all participants in the financial market and ensure stable development of the economy.

Financial misleading advertising is a serious problem that undermines consumers' trust in financial institutions and causes significant damage to their financial interests. Misleading advertising often takes the form of incorrect information about products and services in marketing materials. Consumers influenced by such advertising may be misled about the actual terms, value and benefits of the financial products offered. This may include exaggerating product benefits, glossing over risks, or misrepresenting costs and service terms. As a result, consumers make financial decisions based on incomplete or inaccurate information, which can lead to financial losses and disappointment [7].

Another form of misleading advertising is false promises about returns on investments or other financial products. Financial institutions may use optimistic forecasts and exaggerated promises to attract investors or customers. For example, promotional materials may promise a high level of return on investment without disclosing all associated risks or clarifying that the projected return is not guaranteed. This creates unrealistic expectations among consumers and can lead to significant financial losses when actual results do not match advertising promises.

Misleading advertising undermines the foundations of fair competition in the financial market and damages the reputation of all market participants. It can also have a negative impact on the economy as a whole, as it lowers the level of trust in financial institutions and reduces investment activity. Protecting consumers against misleading advertising is an important task for regulators and consumer protection organisations. It is necessary to introduce and strengthen legislative norms that oblige financial institutions to provide accurate and complete information about their products and services. In addition, consumers should have access to resources to help them evaluate the credibility of advertising and make informed financial decisions. This includes increasing the financial literacy of the population, as well as access to independent advice and information about financial products. Education programs and awareness campaigns can help

consumers recognize the signs of misleading advertising and avoid the pitfalls associated with it. after all, the fight against misleading advertising in the financial sphere is a joint task of the state, financial institutions and consumers. Only by joint efforts can we create a transparent and fair financial market, where consumer rights are protected, and information about products and services is reliable and complete. This will contribute to increasing trust in financial institutions, stimulate investment activity and contribute to the sustainable development of the economy.

Illegal charges in the financial sphere are a serious problem that can significantly affect the financial situation of consumers and their trust in financial institutions. When financial institutions charge fines or other fees without proper justification, it creates an unfair financial burden on customers. Such actions may occur due to errors in accounting systems, imperfect internal procedures, or even deliberate actions aimed at obtaining additional profits. Regardless of the cause, wrongful foreclosures undermine consumer confidence in financial institutions and can result in significant financial losses. The lack of a clear explanation of the reasons for the fines and their amounts adds even more complexity to this problem. When consumers receive chargeback notices without a detailed explanation, they can't understand what they've been charged for. This creates a sense of unfairness and can lead to conflicts between customers and financial institutions. Consumers have the right to know the exact reasons and grounds for any charges and to be able to appeal them if they believe they are unfair.

The protection of consumer rights against unlawful charges requires strict regulation and supervision by the relevant state authorities. Financial institutions must follow transparent and fair procedures when calculating fines and other payments. This includes the obligation to provide consumers with full and understandable information about the reasons and amounts of charges, as well as to ensure the possibility of contesting unlawful charges [8].

In addition, consumers should be informed of their rights and have access to resources to help them protect their interests. Increasing financial literacy and the population's awareness of their rights are key elements in ensuring fairness in the financial market. Information campaigns, counseling and training programs can help consumers better understand their rights and effectively defend them.

After all, preventing illegal charges and ensuring transparency in financial transactions is a joint task of the state, financial institutions and consumers themselves. Only joint efforts can create a financial system where consumer rights are reliably protected, and financial institutions act transparently and responsibly. This will contribute to increasing trust in financial institutions, reducing risks for consumers and ensuring sustainable development of the financial market.

Fraudulent actions in the financial sphere are one of the most serious threats to consumers and market stability. The use of fraudulent schemes to attract funds from consumers usually involves various types of fraud that can cause significant damage to people's financial situation. Criminals can offer investment opportunities that promise high returns with minimal risks, hiding the real conditions and risks. Such schemes often use psychological techniques to instill confidence in potential victims, making them more inclined to invest their money in dubious ventures. Fraud schemes can range from simple pyramid schemes to sophisticated investment scams, creating great financial risks for those who fall prey to the scammers. Falsifying documents or providing false information for the purpose of obtaining a profit is another form of fraudulent activity that can have disastrous consequences for consumers. Criminals can forge financial documents, such as contracts, reports or bank statements, to appear trustworthy and instill trust in customers. They may also provide false information about financial products, misleading customers about the terms and benefits of the services offered. This may include making false promises about investment returns or concealing true credit terms, resulting in financial losses for consumers [11].

Protection of consumer rights against fraudulent actions is a critically important task for regulatory bodies and law enforcement structures. Strict control and supervision of financial institutions and their activities should be implemented to prevent and detect fraud at an early stage. In addition, it is important to provide consumers with access to reliable information about financial products and services, as well as to increase their financial literacy. This will allow them to

recognize potential signs of fraud and avoid dangerous situations. The joint efforts of the state, financial institutions and consumers themselves can create a safer financial environment. It is important not only to rely on regulatory measures, but also to actively involve the public in the process of monitoring and detecting fraudulent activities. Information campaigns, educational programs and counseling services can significantly increase public awareness of the risks and methods of protection against fraudsters. After all, the effective fight against fraudulent actions in the financial sphere requires a comprehensive approach, which includes strict control by the state, transparency of the activities of financial institutions and active participation of consumers in the protection of their rights. This will contribute to increasing the level of trust in the financial system, reducing the risks of fraud and ensuring the stable and fair development of the financial market.

The National Bank of Ukraine plays a key role in protecting the rights of consumers of financial services. Within the framework of this mission, a special unit was created - the Office for Financial Services Consumer Rights Protection, which performs important functions to ensure fairness and transparency in the financial market.

The Office for Financial Services Consumer Rights Protection carries out various activities aimed at supporting and protecting the interests of clients of financial institutions. One of its main functions is to deal with appeals from citizens. This includes the processing of consumer complaints and requests, which allows identifying problem areas in the activities of financial institutions and promptly reacting to them. In addition, the management establishes requirements for financial institutions, ensuring their compliance with regulations and standards. These requirements are aimed at increasing the transparency and fairness of financial services provided to clients. The Department also oversees compliance with the legislation on the protection of the rights of consumers of financial services, which includes monitoring the activities of financial institutions to ensure their compliance with legal regulations. Management pays special attention to monitoring compliance with the legislation on advertising in the field of financial services. This is an important aspect, as false or misleading advertising can seriously harm consumers by misleading them about the terms and benefits of financial products. The Department conducts inspections of advertising materials, ensuring their compliance with legal requirements and protecting the interests of consumers. Thus, the National Bank of Ukraine, through the activities of the Office for Financial Services Consumer Rights Protection, is actively working to create a safe and fair financial environment. This ensures reliable protection of clients' rights, contributes to increasing the level of trust in financial institutions and the stability of the financial market as a whole [11].

It is also quite important to take into account judicial practice, in particular the decisions of the Supreme Court.

The case law published by the Supreme Court contains numerous examples of cases on the protection of the rights of consumers of banking services, relating to credit agreements, deposits, payment cards, etc. These cases demonstrate the variety of offenses that consumers face.

For example, in case No. 176/1445/22 of August 16, 2023, the Supreme Court ruled that the bank is obliged to prove that the client contributed to the loss or illegal use of personal data by his actions. In the absence of such evidence, the benefit of the doubt is interpreted in favor of the consumer. In this case, the bank was obliged to return the funds that were fraudulently debited to the client [9].

The Supreme Court also concluded that moral damages may be recovered even if not provided for in the contract. In particular, moral damages for breach of a consumer contract may be compensated even if the terms of the contract do not provide for the right to compensation for moral damages.

In such circumstances, compensation is provided in accordance with Articles 16 and 23 of the Civil Code of Ukraine and Articles 4 and 22 of the Law of Ukraine "On Protection of Consumer Rights" [12,15].

The Supreme Court came to this conclusion in its Resolution of May 10, 2023 in case No. 522/5513/19.

Looking at the dispute regarding compensation for moral damage for the bank's violation of the bank deposit agreement, the Grand Chamber of the Supreme Court stated that "the bank's violation of the obligation to return the deposit, despite the terms of the contract, is a product defect, thus, in accordance with Articles 4 and 22 of the Law of Ukraine "On Protection of Consumer Rights", compensation is provided for moral damage caused to the depositor by such improper provision of a financial service"[12,14].

Based on the provisions of Articles 16 and 23 of the Civil Code of Ukraine and the content of the right to compensation for moral damage in general as a way of protecting subjective civil law, compensation for moral damage must occur in any case of its occurrence – the right to compensation for moral (non-property) damage arises as a result of a violation of a person's right, regardless of the presence of special norms of civil law [15].

According to Articles 4 and 22 of the Law of Ukraine "On Consumer Rights Protection", the consumer's right to compensation for moral damage is provided in legal relations between consumers and manufacturers and sellers of goods, performers of works and service providers [12].

According to Part 8 of Article 18 of the Law of Ukraine "On Consumer Rights Protection", unclear or ambiguous provisions of contracts with consumers are interpreted in favor of the consumer.

The participation of a consumer in a contract as a weak party, subject to special legal protection in the relevant legal relations, narrows the effect of the principle of equality of participants in civil law relations and freedom of contract, in particular, in consumer credit agreements [12].

In the Resolution of the Supreme Court of August 23, 2023 in case No. 564/282/16-ts, the Supreme Court established that the related service for servicing credit debt specified in the credit agreement is not a credit or other banking service, and therefore is null and void [14].

The bank did not provide documents that would specify the content of the related service "for servicing credit debt", the procedure for providing this service, the procedure for its consumption, its consumer qualities of the service and the terms of providing this service. The text of the contract defines the content of this service vaguely [7]. Therefore, in accordance with Part 8 of Article 18 of the Law of Ukraine "On Protection of Consumer Rights", vague terms of contracts are interpreted in favor of the consumer [12].

Discussion. Violation of consumer rights in the financial sphere is a serious problem that requires attention and measures from government bodies, regulators and consumers themselves. Thanks to modern technologies and increased awareness, violations of this kind are becoming more visible, which contributes to the adoption of effective countermeasures. Important aspects of solving this problem are ensuring the transparency of the terms of contracts between financial institutions and consumers, curbing illegal charges and applying tough sanctions in cases of fraudulent actions. For this, it is important to strengthen the role of specialized bodies that monitor compliance with legislation and protect consumer rights, such as the Office for Financial Services Consumer Rights Protection of the National Bank of Ukraine. Overall, effective regulation and timely response to breaches are important to ensure consumer confidence in financial services and financial market stability. By working together, governments, regulators and the public can make significant progress in this direction, ensuring fairness and safety for all participants in the financial market. Special attention is required to develop, amend, and implement regulations to ensure information security and counter cyberterrorism. Our analysis shows that while legal frameworks, such as the Law of Ukraine "On Protection of Consumer Rights" and the Law of Ukraine "On Banks and Banking Activities", provide a basis for protecting consumer rights, their effective enforcement and regulatory oversight need to be strengthened.

In addition, consumer protection is not just a matter of protecting individual rights, it is related to the stability of the financial system. Undermining consumer trust through unfair banking practices can lead to systemic risks. That is why we support a multi-pronged approach that goes

beyond raising consumer awareness. This includes stronger regulatory measures, technological solutions to increase transparency, and industry self-regulation through codes of conduct.

Conclusions. First of all, our article analyses the specifics of consumer rights violations in the financial sector and existing approaches to rights violations in this area. As a result, a systematic approach to solving the problem of violations of the rights of consumers of financial services is presented. In particular, we have proven that the negative consequences of such violations are felt not only by clients, but also by financial organisations. At the same time, it was determined that the main emphasis and main place in the system of measures should be on the mechanism for protecting the consumer of financial services, and this will include measures to prevent violations, the presence of a powerful institution of responsibility, and comprehensive systemic activities of all stakeholders. In addition, the study clearly states that this is a security issue, both for the individual consumer and the business entity, as well as for the financial system and the state. Therefore, the cooperation of financial institutions, the regulator, the government, and the legislator should be aimed at ensuring the rights of consumers of financial services. In the latter, as proven in the work, the development of legislative acts on the protection of information security and countering cyberterrorism should be on the agenda, including with the aim of fully implementing international regulatory legal acts on the path of Ukraine's integration into the EU. This and other things, it seems, will relieve the judicial system, inspire confidence in potential consumers, promote technological progress, ensure the stability of the financial system, and ultimately establish Ukraine as a social, democratic, and legal state.

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Порушення прав споживачів фінансових послуг

Вступна частина. Стаття присвячена дослідженню відносин, які виникають в процесі надання фінансових послуг різними фінансовими установами, внаслідок чого відбуваються або можуть відбуватись порушення прав споживачів, з урахуванням умов сьогодення.

Постановка проблеми. Актуальність дослідження порушень прав споживачів у сфері фінансових послуг є незаперечною в сучасному світі, особливо зі зростанням користувачів послуг у кіберпросторі. Однак зростаюча складність фінансових продуктів і послуг вимагає високого рівня захисту споживачів. Сьогодні порушення прав споживачів у фінансовій сфері можуть мати серйозні наслідки, включаючи фінансові втрати, порушення довіри до фінансових установ та соціально-економічні проблеми для споживачів, і як наслідок безпеці фінансової системи і державі.

Нерозв'язані аспекти. Таким чином, як вбачається, вивчення і аналіз проблем щодо порушень прав споживачів фінансових послуг і окремих аспектів їх попередження є актуальним і важливим для сьогодення. Водночас вважаємо приділену увагу у попередніх дослідженнях не всеохоплюючою та такою, що потребує розгляду окремих аспектів порушень прав споживачів та пошук відповідних рішень на рівні управлінських, законодавчих ініціатив тощо.

Мета статті. Метою роботи в свою чергу є напрацювання системного підходу до вирішення проблем, пов'язаних з порушенням прав споживачів фінансових послуг.

Основний матеріал. Особлива увага приділяється таким ключовим проблемам, як непрозорі умови договорів, досліджується вплив оманливої реклами, надмірні обіцянки щодо прибутковості інвестицій, також розглядається проблема неправомірних стягнень та комісій. Шахрайські дії і кіберзлочини, такі як використання обманних схем або підробка документів. В статті також розглядаються роль Управління захисту прав споживачів фінансових послуг. Нами використанні наступні наукові методи: індукції, дедукції, порівняльний, метод систематизації.

Висновки. В результаті дослідження представлено системний підхід до вирішення проблеми порушень прав споживачів фінансових послуг. Це, як вбачається, розвантажить судову систему, викличе довіру у потенційних споживачів, сприятиме технологічному прогресу, забезпечить стабільність фінансової системи і в підсумку утвердить державу Україна як соціальну, демократичну і правову.

Ключові слова: порушення прав споживачів, фінансові послуги, непрозорі умови договору, оманлива реклама, незаконні збори, шахрайські дії, Національний банк України, механізм захисту споживачів фінансових послуг.

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