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Examining Legal and Financial Aspects of Consumer Credit in Selected Countries of Western Balkans and Kosovo

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Abstract

This research aimed to take both financial and legal aspect of the six countries of the Western Balkans: Albania, Bosnia and Herzegovina, North Macedonia, Kosovo, Montenegro and Serbia. From financial point of view, the study examined the volume of consumer loans and its impact on the consumer credit. From legal aspect, the study discussed how the Western Balkan countries regulated the consumer credit, whether they complied with the EU regulation especially with the Consumer Credit Directive and what challenges were faced in the process. By adopting the explorative and documentation research approach for data collection, the study found that a few initiatives had been taken on consumer credit in the Western Balkan countries which enabled making a comparison of their legal frameworks, particularly in comparison with Kosovo which had harmonized consumer credit and its challenges with a few legal initiatives under the European Union Directives. The study recommends that in order to make a financial and legal analysis, it is essential to analyze the issues related to the level of consumer credit in each country. The legal framework of each of the Western Balkan (WB) should also be analyzed to examine the state of consumer credit, similarities and dissimilarities, alternatives for incorporating best practices in Kosovo case and how they are complying with the EU Consumer Credit Directive through the comparative method.

Introduction

The Western Balkans is a region of unfulfilled potential. The region comprises six countries: Albania, Bosnia and Herzegovina, North Macedonia, Kosovo, Montenegro and Serbia, with a total population of about 20 million and a combined GDP of roughly €80 billion. The region lies in the heart of Europe and is surrounded by European Union (EU) countries. A very weak economic performance, combined with political instability and upheaval over recent decades, has left the region lagging behind other EU countries in terms of prosperity and living standards. The GDP per capita in the Western Balkans is on average just one-quarter of any other EU members in Western Europe (EBRD,2018). Consumer credit has remained one of the most requested banking products in the developing regions such as the Western Balkans; though consumer credit has been proven as the cause of the increase in the number of new customers in many banks in the region.
Consumer credit is a relatively modern phenomenon. Individuals have entered into debt obligations since antiquity, but beginning from the nineteenth century, installment payment plans were made available by sellers to purchase various commodities like furniture, sewing machines, and other household goods. Before the 1920s, there were few demands for credit for automobiles, durable goods, college tuition fee, and home modernization and repairs, which make up the bulk of consumer credit today. There were also very few financial institutions in the nineteenth and

early twentieth centuries, that were willing to extend consumer credit. The reason was that most lending agencies such as banks did not have sufficient information or method to assess the creditworthiness of most individual borrowers. As a result, the costs of managing consumer credit in any number was prohibitively high. Much of the demand for consumer credit arose with the growth of urbanization and the mass production of consumer goods. These developments began in the nineteenth century and became especially strong since World War II.

After the World War II, inspired by the United States, the implementation of consumer credit system was benefited by the dual context of modernization of banking techniques and the emergence of new and simpler forms of credit. A modern and efficient installment system emerged based on credit organizations that were frequently connected to manufacturers and that specialized in financing household appliances, among which the television was an especially profitable item (Logemann, 2012). Therefore, through consumer credits, especially in recent years, a large volume of purchases has been realized, thus increasing the demand curve for goods and services and influencing the intensification of the economy in general.

Lending remains banks' main activity accounting for almost two thirds of total banking sector assets in the region. Albanian banks have the most diversified portfolio with loans making up 44 percent of banking sector assets at end-2015 (World Bank 2016). Consumer credit had also risen in the Western Balkans. The financial intermediary institution especially banks had also started offering consumer credit to their clients to meet their expenses. Table 1 presents the amount of consumer credit for the period 2016-2020 in Western Balkan countries.

Table 1. Total amount of consumer credit in Western Balkan countries for the period 2016-2020

Country year	*2019*	*2020*	*Aug-2021*	*Unit*
Albania	*186.279*	*195.280*	*210.710*	*Million ALL*
Montenegro	*1,342.145*	*1,402.180*	*1,422.845*	*Million EUR*
North Macedonia	*169,321*	*185,088*	*195,512*	*Million MKD*
Serbia	*1,102.702*	*1,242.594*	*1,291,894*	*Million Serbian Dinar*
Kosovo	*1,082*	*1,162*	*1,325*	*Million EUR*

Source: Annual reports of Central banks of respective countries, by years

As can be seen from Table 1, consumer credit was rising continually in the Western Balkans, which was due to reasons such as low interest rate which gave further incentive to consumers to borrow, and digitalization that led to an increase in the online distribution of credit availability.

While looking at the trend in EU, in some jurisdictions, it was evident that credit institutions were the dominant providers of consumer credit. Several stakeholders highlighted that consumer credit was becoming more important among credit institutions as digitalization and automation allowed for faster credit granting procedures without the physical presence of the client. Over the past decades, household debt in Europe increased significantly: between 1997-2017, from 39.3% to 50% of nominal GDP. The mortgage credit and consumer credit also contributed to increasing the volume of debt. In 2017, the outstanding amount of consumer credit in EU28 was around EUR 1,800 billion (Figure 1). In terms of market size, 10 biggest EU markets were the UK, Germany, France, Italy, Spain, Poland, Greece, Belgium, Austria and the Netherlands.

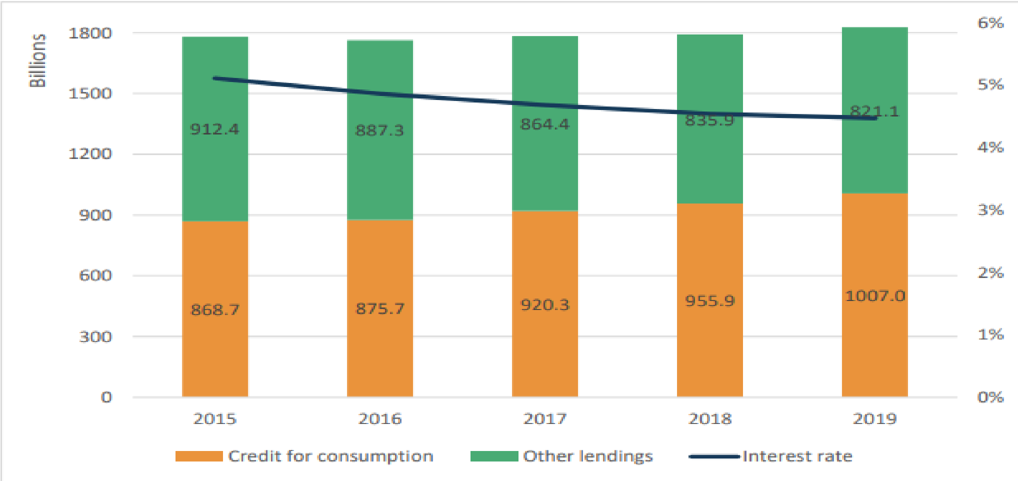

Figure1: Consumer credit, 2015-2019(outstanding amount)
Source: EBA Consumer Trends Report 2018/19

The EBA also reported that out of the total number of consumer complaints reported by national competent authorities in 2017, on average 17% were related to consumer credit. The top reasons for consumer complaints were the level of fees, various issues related to pre-contractual and contractual information, debts and debt collection, levels of interest rates and management issues (EBA, 2018).

The current study premised that consumer credit as a basic banking product had many requirements to be fulfilled stated by Consumer Directives. It is also required to consumer credit to harmonize with these directives. However, this harmonization and alignment has remained a challenge even for the EU Members. As an experimental research based on documentation techniques, this study aimed to examine whether such a harmonization was implemented in the Western Balkan countries. The study adopted a comparative analysis approach to compare the consumer credit system in the six countries of the Western Balkans. The focus in the study remained on the following variables:

- Financial magnitude of consumer credit in Western Balkan
- Financial magnitude of consumer credit in Kosovo
- Regulation of consumer Credit in Western Balkan

- Regulation of Consumer Credit in Kosovo
- Complying of Consumer Credit in Kosovo with the EU Regulations

The research study examined these variables from both financial and legal aspects of the six countries of the Western Balkans: Albania, Bosnia and Herzegovina, North Macedonia, Kosovo, Montenegro and Serbia. From financial point of view, the focus was on the volume of consumer loans and its impact on the consumer credit while the legal concerns focused on the issues how the Western Balkan countries regulated the consumer credit, whether they complied with the EU regulation especially with the Consumer Credit Directive and what challenges were faced in the process. In legal analysis, the focus was on making a comparison of WB regulations regarding consumer credit with the European Union regulations. Finally, the study ended with conclusions and recommendations as to what steps Kosovo should take regarding the advancement of the legal regulation of consumer credit and understand the impact that legal regulations may make on customer protection.

Literature review

The dynamism of consumer credit and the rights and obligations arising from the creation of legal relations of consumer credit contracts has shaken more powerful international institutions. In each of these institutions, attempts have been made to put the legal regulation framework of consumer credit at national levels. In the early 2000s, the consumer credit market in the EU experienced high levels of growth. Household debt - which included all types of debt such as personal loans and mortgages – had shown constant increase from until 2010. Household debt was an important driver of the economic growth during the pre-crisis period. Stable levels of inflation lowered households' constraints of liquidity and enabled consumers to switch from saving to borrowing. However, the credit expansion was also boosted by the development of the Single Market integration in financial services, innovative credit products and the overall optimistic outlook of the EU economy. The positive outlook, combined with the still low interest rates over 2003 – 2005 resulted in consumers taking more credits. Based on EU population data, it is estimated that in 2018 there were around 59.8 million EU citizens with a personal loan, and a total number of personal loans in the EU of 71.8 million (European Commission, 2020).

Consumer credit is an integral part of many societies and a key driver behind the culture of consumerism. Everywhere credit transactions are occurring; in banks, shops, over the internet and on the phone. Given the economic and social importance of consumer credit, the principles and practices that underpin the way in which credit agreements are created and managed are clearly important subjects that deserve extensive and detailed study (Finlay, 2008). Consumer credit schemes provide finance facilities to the consumers to meet their demands of the household for maintaining a higher standard of living, procuring the durable goods and for fulfillment of their sudden necessities. Generally, its repayment period

is less than two years. Over the period, the borrower pays back the principal along with interest by monthly installments. It may be secured or unsecured.
Credit extension or lending is the principal business of a bank. Credit constitutes more than 60% of a bank's asset and remains the main source of its income. Credit is also the most risk-bearing asset and if not managed prudently, it may cause severe financial losses to the bank. This conflicting characteristic of credit provides all the significance to credit management. Strong and effective credit management is essential to ensure the financial health of a bank. The dominant objective of credit management is to maximize profit within a consistent framework of risk and credit discipline. Credit management involves credit planning, credit policies, credit producer, credit administration, credit monitoring, and credit recovery.
Access to consumer credit is influenced by many factors, such as amount and security of the consumer's income, and credit card company and financial institution practices. Access is also driven by social, cultural and cognitive factors, including consumer understanding of the cost of credit; perceptions regarding ability to repay; cognitive influences regarding immediate consumption and delayed payment; understanding of the benefits and risks of debt to economic security; and the conflicts of interest inherent in the business of lending. The selection of borrowers is the most important aspect of credit risk management. The quality of the credit portfolio of the bank depends to a large extent on the quality of its borrowers. To judge the quality of borrower the bank takes into account the following:

- Character of borrowers (honesty, willingness, and commitment to paying debts
- Capacity -the success of business
- Capital - financial condition
- Collateral security
- Condition – e.g., economic
- Compliance -laws and regulations

Credit given by banks allows consumers to pay for goods and services that they are unable or unwilling to immediately pay for in full, such as buying a car or new furniture. A well-functioning consumer credit market benefits households, manufacturers and sellers of goods and services, and stimulates economic growth (Group, 2019). A classification of credit products may generally be based on the recipient of credit, the main repayment source and the collateral (Gonzalez, 2009). Consumer credit for the traditional banking sector is generally defined as credit to households or individuals to finance the purchase of consumer goods or services (Bertola, Bertola, Disney, Grant, & and Richard Disney, 2006; Vandone, 2009) using the recipient and usage of credit to define the loan product.
Today's consumer lending environment is highly complex, driven by ever increasing customer demands, regulatory changes, and the digital revolution that is leading to a host of new entrants. Successful lenders need to navigate each of these challenges and recognize that a "one-size-fits-all"

approach to customer experience is no longer suitable. Instead, they should develop a set of principles which can be used to build a successful customer strategy (PWC,2015).
Given below are definitions of a few terms used in this study:

- ***Parties:*** Parties in consumer loans are individuals and financial institutions between whom a credit relationship is built.
- ***Consumer*** means a natural person who in credit transactions is acting for purposes which are outside his trade, business or profession;
- ***Creditor*** means a natural or legal person who grants or promises to grant credit in the course of his trade, business or profession;
- ***Credit agreement*** means an agreement whereby a creditor grants or promises to grant to a consumer credit in the form of a deferred payment, loan or other similar financial accommodation, except for agreements for the provision on a continuing basis of services or for the supply of goods of the same kind, where the consumer pays for such services or goods for the duration of their provision by means of instalments.
- ***Credit*** allows consumers to pay for goods and services that they are unable or unwilling to immediately pay for in full.

Results

Western Balkan (WB) countries have taken significant steps towards harmonizing their legislation with the Consumer Credit Directive. The main challenge felt was in implementing the requirements that were included in their legislations. The perceptions of distortion of competition between creditors in the WB market due to different protection levels were largely addressed by the Directive in the form of a higher-level playing field with the same standards applying across the WB. This. is particularly the case in relation to aspects fully harmonized by the Directive such as the Annual Percentage Rate of Charge (APR), the rights of withdrawal and early repayment as well as the Standardized Consumer Credit Information (SCCI)? In addition, the lack of knowledge among consumers of available legislation in case of consumer credit was the main reason of lack implementation of legislation in practice.
These challenges remain active even in the EU members so the good job was done in the legislation including all the EU Directive requirements and for the part of implementation to face challenges depending upon the level of consumer financial education. On the other hand, the fast growth in the WB during 2000-2008 was to a large extent sustained by the strong inflow of international finance. A boom in bank credits enabled an increase in domestic borrowing, when the foreign-owned domestic banks extended an enormous amount of loans to local clients, firms and households. While government expenditure had also grown, in many countries it has been kept in check by the IMF and the EU (Bartlett and Prica, 2012).
Following stagnant or declining credit conditions in recent years, lending recovered slightly during 2015 in most Western Balkans countries. For instance, a post-crisis tightening of credit standards and deterioration in

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parent funding conditions was seen reducing the supply of credit across the WB region. A few years later, with economic growth firming up again in 2015, credit growth became stronger in North Macedonia and Kosovo, in comparison to other WB nations. The rest of the region (except Albania) has still not shown any signs of growth. This section will now examine the individual case of all WB nations to examine both financial and legal aspects of consumer credit in the WB countries from financial and legal point of view.

Albania Case

Albania has witnessed phenomenal growth of consumer financing products and services over the last few years. Most of the commercial banks were involved in consumer lending through one or more financing modes. Consumer credit had become a very lucrative business due to its widespread and variable interest rates. This increase in consumer financing also brought many challenges for the national economy as well as for individual borrowers. It is necessary to examine the growth of consumer financing in Albania, and outline major issues and challenges associated with it.
The banking system in the Republic of Albania consists of the Bank of Albania, whose status is determined by Law no. 8269, dated 23.12.1997 as well as by banks and branches of foreign banks, whose status is determined through Law No. 9662. The Bank of Albania is the central bank of the Republic of Albania and is the authority that supervises all banks, branches of foreign banks in the territory of the Republic of Albania and other banks licensed by the Bank of Albania to operate outside the territory of the Republic of Albania. Figure 2 presents the current state of bank's ownership.

	2014	2015	2016	2017	2018	2019	2020
Banks in Albania	16	16	16	16	14	12	12
Banks 'ownership structure, by capital origin, of which:							
I. Majority foreign owned [1]	14	13	13	13	11	8	8
• EU-based banks	10	9	9	9	7	6	62
• Turkish based	1	1	1	1	1	1	12
• Majority owned by an international financial institution (Saudi Arabia)	1	1	1	1	1	1	14
II. Majority Albanian owned	2	3	3	3	3	4	45

Figure 2: Banks' ownership structure (number of banks at period-end)
Source: Annual Report (2019) Bank of Albania

Albania has also seen a phenomenal increase in consumer financing products and services over the last seven years. Most commercial banks are involved in consumer lending through one or more ways of financing, as it has become a very lucrative business due to its high prevalence and variable interest rates. Increasing consumer financing has come with many challenges facing the national economy as well as individual borrowers. As it can be seen in Figure 3 and Figure 4, loans given to households in the total loans distributed in Albania have a value of 198,522 million or 34.31% and occupy a large place in the total loan portfolio at the national level.

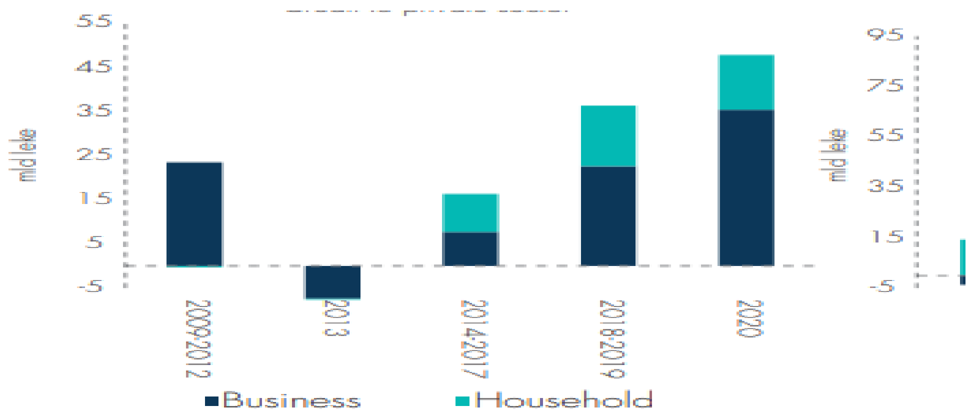

Figure 3: Credit to private sector
Source: Annual Report (Bank of Albania, 2019)

Consumer credit accounts for 30% of loans to households, or about 3.9% of GDP. It also contributed about 2.2 percentage to the annual growth of household credit in the first quarter. It has also been affected by the unusual circumstances of Covid-19, accompanied by falling demand and tightening of lending standards by banks as a result of increased perceived risks. The stock of consumer credit resulted in a negligible increase compared to the end of the year, mostly reflecting the contraction it experienced in March,2020 and was offset by its increase in the first two months of the year and the interest rate of 6.9%.

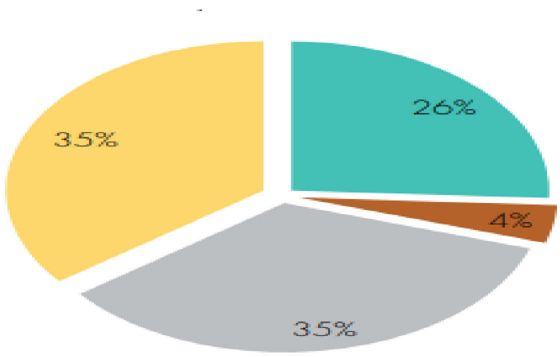

Figure 4: Structure of individual loans
Source: Annual Report (Bank of Albania, 2019)

The average value of consumer credit for Albania during 2007-2021 period was 58.64 billion Albanian Lek with a minimum of 36.06 billion Albanian Lek in January 2008 and a maximum of 85.82 billion Albanian Lek in August 2021 (The Global Economy, 2021).
From the legal point of view, consumer credit in Albania is regulated by Law No. 9902, dated 17.04.2008 on Consumer Protection (LCP). Specifically, consumer credit in Albanian law is regulated through Articles 44-45 of the LCP. This field is regulated horizontally by other articles of general character of this law, which complement the protection guaranteed to the consumer in relation to consumer credit. The Bank of Albania, meanwhile, has approved a regulation regarding consumer credit called

"Regulation 48/2015" On Consumer Credit and Mortgage Credit (Bank of Albania, Regulation on Consumer Credit and Mortgage, 2015). The purpose of this regulation is to protect the interests of consumers of consumer credit and mortgage credit, while the object of this regulation is to determine the requirements on the content and manner of providing pre-contractual and contractual information of consumer credit and mortgage credit to the consumer, and credit regulation consumer and mortgage credit.

According to the LCP, the Consumer Protection Commission is one of the administrative structures which is specifically charged with reviewing violations and taking measures to implement its provisions, as well as bylaws in its implementation. The determination of the rules for the functioning of this commission, as well as the procedures for the evaluation of violations, are regulated through LCP No. 1444 dated 22.10.2008 on the functioning and payment of the members of the Consumer Protection Commission, as well as the determination of the procedures of assessment of violations. Another key institution for supervising the implementation of legislation in the field of consumer credit is the Bank of Albania, which is responsible for regulating and supervising financial activities in Albania, and consequently, for supervising the implementation of legal provisions related to consumer loan.

Serbia Case

The banking sector in Serbia is regulated, licensed and supervised by the central bank of the country known as the National Bank of Serbia, which has recognized these legal powers in the law on the National Bank of Serbia. The banks in Serbia are governed by the Article 4 of the Law on the National Bank of Serbia, Official Gazette of RS, no. 72/2003, 55/2004, 85/2005 - other law, 44/2010, 76/2012, 106/2012, 14/2015, 40/2015 vide the decision of the Constitutional Court No 44/2018.

Serbia's banking sector, making up over 90% of financial sector assets, was stable in 2019 owing to adequate capitalization, high liquidity and profitability. Throughout the year, banking sector adequacy and liquidity ratios were significantly above the prescribed thresholds. At year-end, banking sector profitability resulted in the ROA of 1.8% (2.12% at end-2018) and ROE of 9.8% (11.27% at end-2018). The banking sector's net profit, before tax, in 2019 equaled RSD 67.7 billion, down by 10.6% compared to the result achieved at the end of 2018. At end-2019, the share of NPLs in total banking sector loans stood at 4.1%, the then lowest level on record. The NPL share dropped by 18.3 percentage points compared to July 2015, i.e., the period before the adoption of the NPL Resolution Strategy.

The fall in gross NPLs by 9.7% in Q4-2019, along with a rise in total loans by 3.0%, pushed the share of NPLs in total gross loans further down by 0.58 percentage points quarter-on-quarter, to 4.09%, which is their new historic low since the introduction of the uniform definition of a non-performing loan and mandatory reporting in 2008. At end-Q4 2019, gross corporate NPLs equaled RSD 37.1 billion, down by RSD 4.4 billion or 10.6%

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quarter-on-quarter, mainly due to: collection (RSD 3.4 billion), write-offs (RSD 1.1 billion), and assignment (RSD 1.1 billion). By sector, the biggest share in total corporate NPLs continued to be held by manufacturing (40.6%, with a 4.4% gross NPL ratio), followed by trade (17.4%, with a 1.9% gross NPL ratio), construction (12.0%, with a 3.8% gross NPL ratio) and real estate business (16.6%, with a 5.4% gross NPL ratio).
To strengthen the resilience of the banking sector further, the liquidity coverage ratio was introduced. With effect from 1 January 2018, banks were required to maintain this ratio at a level not lower than 100% (prescribed floors are the same as in the European Union). As of 31 December 2019, the liquidity coverage ratio at the banking sector level measured 199.3%. Figure 5 summarizes the structure of loans in Serbia.

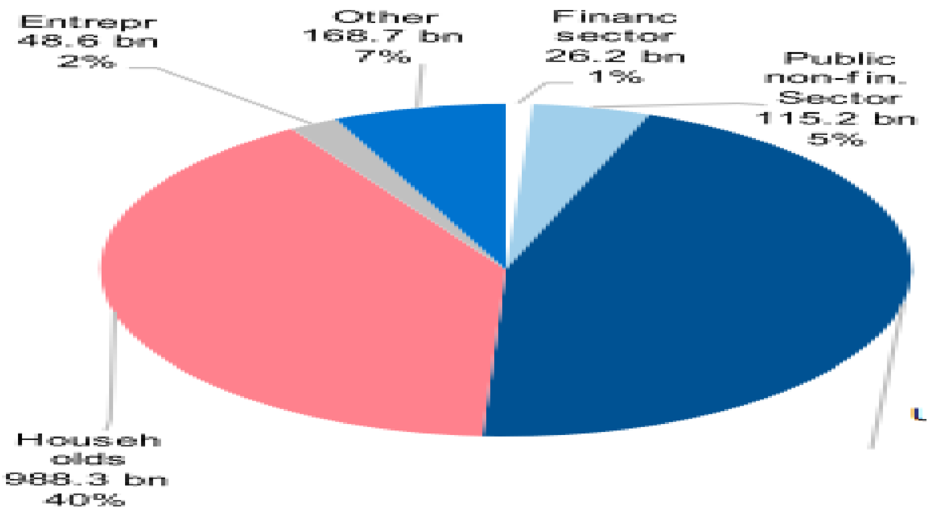

Figure 5: Structure of loans in Serbia
Source: Annual Report (National Bank of Serbia, 2019)

During July 2008 to August 2021, the average value for Serbia was 458.92 billion Serbian Dinar with a minimum of 236.03 billion Serbian Dinar in July 2008 and a maximum of 833.31 billion Serbian Dinar in August 2021.
On the legal level, Serbia showed some elements of the acquis already in force through the Law on Consumer Protection (LCP,2014), such as the acquis on consumer rights, unfair terms in consumer contracts, disclosure of product prices, sale of consumer goods and relevant guarantees, unfair trade practices, time distribution, travel packages. In Serbia there was a dispute between the line ministry for consumer protection and the National Bank of Serbia regarding the legal provisions that should be included in the law on consumer protection and as a result LCP did not include legal rules related to the financial consumer, including consumer credit, but in a special law on financial services (Lazarevic, 2013).
Serbia approved a special law on consumer protection in financial services known as Law on Consumer Protection in Financial Services vide Official Gazette of the Republic of Serbia no. 36/2011 and 139/2014 which covered consumer credit. Given that the legal regulation, especially of consumer credit, was covered by this law, it was seen that Serbia had given

enough space to the regulation of consumer credit by placing it at the level of law. However, consumer credit was regulated with regulatory instruments by the National Bank of Serbia even before the entry into force of the law, thus placing the financial consumer in a favorable position vis-à-vis financial institution.
The Law on Consumer Protection of Financial Services of 2011, amended in 2014, was partially in line with the acquis on consumer credit as revealed in the Directive 2008/48/EC of the European Parliament and in The Council of 23 April 2008 on Credit Agreements for Consumers and Repealing Council vide Directive 87/102/EEC. L 133/66 EN Official Journal of the European Union 22.5.2008. What was noticed in the Law on Consumer Protection of Financial Services was the lack of harmonization regarding the standard form of credit which was a requirement of the Consumer Credit Directive. As we know, information was the first step that affected the protection of the consumer in all sectors, including the banking sector, therefore the lack of harmonization in this part put the financial consumer who took consumer loans in an unfavorable position towards financial institutions in Serbia. When it came to consumer loan, however, it must be mentioned that a very important institute such as the mediation offered by the KSB represented a successful example. Regularly published statistics showed a steady increase in disputes successfully resolved through this instrument.

Northern Macedonia Case

Pursuant to the Law on the National Bank of the Republic of Macedonia and the Law on Banks, the National Bank became the only supervisory agency competent for licensing banks and savings banks, as well as for supervising their work. The banking system in the Republic of Northern Macedonia includes 14 commercial banks and one state-owned bank (Development Promotion Bank). Within commercial banks, there are five large banks, six medium-sized banks and three small ones. The five largest banks represent about 75% of total assets in the banking sector. According to the latest data, the share of foreign capital in the total capital of the banking system is 71.9%. Six banks are subsidiaries of foreign banks, four of which are based in the EU region.
The composition of the loan portfolio of domestic banks has changed over the years. Twenty years ago, enterprises were the dominant sector in banks' loan portfolios, accounting for more than 90% of total loans. Over the years, interest on household loans has been steadily rising. As in previous years, in 2019, the banking system maintained its stability. Banks with their prudent policies and the National Bank, through its continuous improvement of standards in accordance with European regulations, enabled the maintenance of high and stable liquidity and solvency. At the end of 2019, the average capital adequacy ratio of banks was 16.3%. The non-performing loan rate (NPL) fell to 4.8%. Net interest income, with a share of 64.6%, remained the most important in the structure of total income of banks. The domestic banking system in 2019 continued with profitable operations, but with slightly lower profits and consequently

lower indicators of return on capital and assets, compared to 2018. At the end of 2019, these rates of return were respectively 11.7% and 1.3%. Banks' net interest margin for the fourth consecutive year contributed to lower profitability.

Overall, the banking system is sound, stable and profitable. Good conditions, strong liquidity and capital positions of domestic banks show sufficient potential to absorb potential losses, and also to provide credit support to households and the corporate sector. In September 2018, households and enterprises had similar shares in total bank loans (49.1% and 50.4%, respectively). As revealed in Figure 6, loans to the household sector continue to be the main driver of growth, while lending to the corporate sector has a smaller positive contribution.

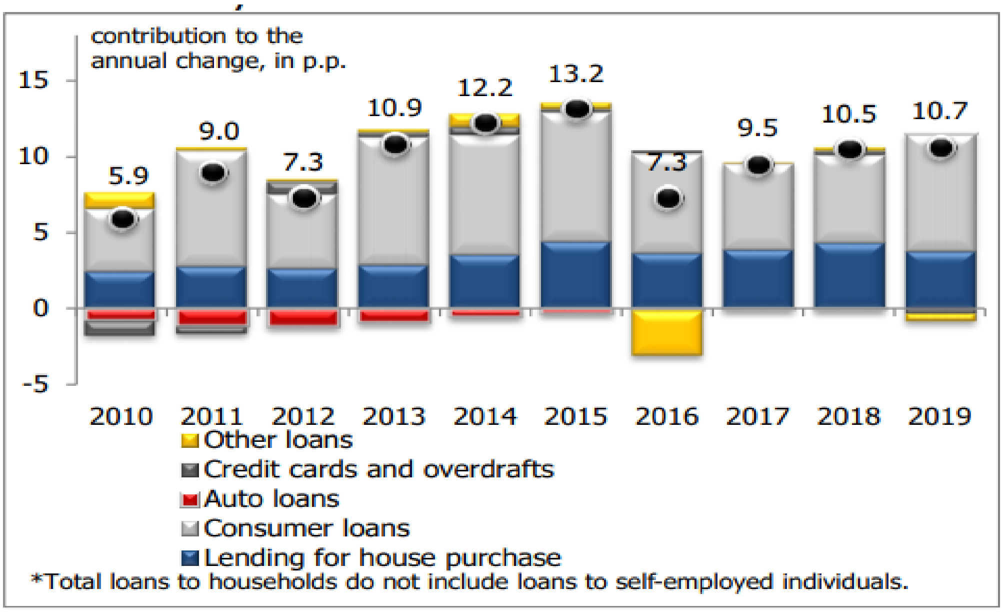

Figure 6: Loans by sectors in the Republic of Northern Macedonia
Source: National Bank of Northern Macedonia, 2019

From January 2009 to August 2021 the average value for North Macedonia during that period was 87.38 billion Macedonian Denar with a minimum of 57.56 billion Macedonian Denar in February 2010 and a maximum of 131.52 billion Macedonian Denar in June 2021. In the latest law on consumer protection, consumer credit does not find a specific treatment and this is left to the regulation of the central bank of the country.

The National Bank of Northern Macedonia has published several regulations dealing with consumer credit in the banking sector of Northern Macedonia. An important instrument in terms of consumer credit is the Guidance on the content of the pre-contractual information form for consumer credit which specifies all the information that the consumer loan should contain and this information is mandatory for all commercial banks operating in Northern Macedonia.

There also exist a few regulations such as Procedure for Conducting Supervision of banks and savings banks regarding consumer protection in case of consumer loan agreements. This is a very important legal instrument when it comes to consumer credit. Regulation on the

methodology for calculating the percentage of the total cost of consumer credit is another important regulation in consumer credit which aims to unify the way of calculating the total cost of credit. Another major regulation is regulation on reporting the number and value of consumer credit agreements and the annual contractual percentage of total costs for consumer credit which aims to determine the form, content, manner and terms that banks must submit to the National Bank of the Republic of Macedonia. This report contained the number and value of completed consumer credit agreements and the percentage of annual total contract.
Legal regulation of consumer credit with lower acts than the law is a challenge for both the banking client and the law enforcers as consultations with many legal acts are needed to reach the required result. It is also worth noting that the latest law on Consumer Protection does not include the European Union Consumer Credit Directive which is vital for consumer credit although it was observed that some rules have been approved by the National Bank of Macedonia.

Montenegro Case

The financial system in Montenegro is bank-dominated, and consists of 13 commercial banks and five micro-credit financial institutions. The banking system is stable, liquid and solvent having a low level of NPLs of 3.8% which are in constant decline. Liquid assets are about 20% of total assets and solvency at the system level was 17.8%. Total assets amounted to €4,603 billion, loans were €2,942 billion, and they grew by 4.5%, while deposits amounted to €3,485 billion. New loans showed year-on-year 8.15%. Interest rates on loans showed a constant mild downtrend. The banking system is well-capitalized and it amounts to about €600 million. A record profit growth of €50.6 million was achieved, which was twice as much as last year.
Regarding the structure of total loans at the end of 2019, the main portion of 51.16% was recorded from loans to legal entities, while 48.84% of total loans were provided to individuals. Compared to the previous year, loans to legal entities and individuals increased by 5.77% and 8.81%, respectively. Consumer credit in Montenegro increased to EUR 1,404,500,000 in May 2021. The purpose structure of loans shows that most of them were cashless loans (28.87%), liquidity loans (17.00%), \`other\` category loans (16.67%), housing loans (14.76%), loans for purchase of fixed assets (7.65%), loans for refinancing liabilities to other banks (6.43%), loans for construction and adaptation of buildings (4.19%), and overdrafts (4.08%). Smaller amounts were approved for credit cards, consumer loans, car purchases and the preparation of the tourist season (1.35% of the total approved loans).
The Central Bank of Montenegro (CBM) was established by the Law on the Central Bank adopted by the Parliament of Montenegro in 2000 in accordance with which the CBM was established in March 2001 as an independent institution of the Republic of Montenegro responsible for monetary policy, the establishment and maintenance of a sound banking system and an efficient payment system.

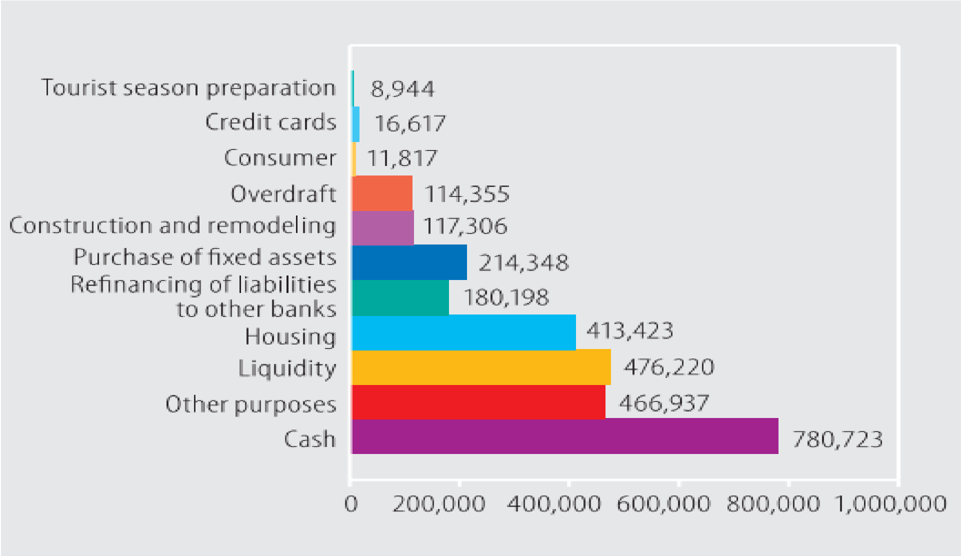

Figure 7: Loan structure Montenegro
Source: Central Bank of Montenegro Annual Report (2019)

The establishment and functions of the CBMZ are also specified in the Constitution of the country where Article 143 of Constitution of Montenegro, Official Gazette of Montenegro no. 01/07 /, 25 October 2007specifies that: "The Central Bank of Montenegro will be an autonomous organization, responsible for monetary, financial stability and banking system operations. When it comes to consumer credit and its legal regulation, Montenegro has approved the law on Consumer Credit (Official Gazette of the Republic of Montenegro 35 of 23 July 2013).
Although not explicitly specified, the law is based on the EU Consumer Credit Directive and regulates almost all relationships between the customer and the consumer credit provider. The legal provisions of this law regulate all the relationship that can be established between the client and the consumer credit provider starting from the pre-contractual phase until the closing of the loan. What stands out is the incorporation of the provisions in the customer information phase and that of publicity as two very important phases that are created in the case of consumer credit. While the provisions related to consumer protection which are not included in this law will be applied the provisions of the Law on Consumer Protection (Official Gazette of Montenegro 002/14, 006/14, 043/15, 070/17), Law on Obligations Relationships (Official Gazette of Montenegro, 47/2008 of 7 August 2008) and Law on Contractual Relations (Law of Contracts and Torts in Montenegro).
The main challenge in the Republic of Montenegro is implementing the law in practice. The Central Bank of Montenegro is responsible for monitoring the implementation of the Consumer Credit Law and other laws applicable in the banking sector. For this purpose, the central bank conduct monitoring. Thus, for example, the Central Bank, found in the direct control procedure that five banks need to improve the level of alignment of their business operations with the provisions of the Law on Consumer Credits, in a number of domains such as finding the level of consumer information at the pre-contract phase; identifying essential elements of the contract;

calculating fees in the event of early credit repayment; preparing the contents of the report in the form of permitted overdraft; and calculating and presenting the EIR by further regulated decision on the unique method of calculation and presentation of the effective interest rate on credits and deposits (Centre for Monitoring and Research (2017).

Kosovo Case

The banking system of Kosovo consists of the Central Bank of the Republic of Kosovo which is the supervisor, licensor and regulator of the banking system and commercial banks. Kosovo's banking sector is new in terms of activity and we can talk about a market economy banking system after the liberation of the country from 1999 onwards. During this period there have been very large developments in the banking sector. In terms of structure, the banking system is simple, in the country we have only commercial banks.

In 2019, similar to recent years, the banking sector in Kosovo recorded quite good financial performance, maintaining a level of profitability significantly higher than the historical average. The net value of profit realized in 2019 amounted to 86.2 m Euros (CBK 2019, Annual Report). The banking sector assets in 2019 also amounted to 4.76 billion euros (Figure 7). The growth of assets of the sector during 2019 was attributed to the positive dynamics that characterized the lending activity, an activity that was supported by both the improvement of financing conditions by banks and the increase in demand for credit. Among other things, credit supply was positively affected by competitive pressures, favorable liquidity position and continuous improvement of the loan portfolio quality.

Description	2015		2016		2017		2018		2019	
	EUR milion	Share (%)	EUR milion	Share (%)	EUR milion	Share (%)	EUR milion	Share (%)	EUR milion	Share (%)
Cash and balance with the CBK	491.0	14.5%	457.3	12.6%	499.4	12.9%	541.8	12.9%	622.5	13.1%
Balance with commercial banks	316.0	9.3%	342.0	9.4%	296.6	7.7%	340.8	8.1%	440.6	9.3%
Securities	473.3	14.0%	510.3	14.0%	486.4	12.6%	430.2	10.3%	526.5	11.1%
Gross loans	2,019.5	59.7%	2,230.0	61.3%	2,485.5	64.2%	2,755.5	65.8%	3,031.9	63.8%
Fixed assets	57.0	1.7%	58.5	1.6%	60.1	1.6%	79.6	1.9%	92.2	1.9%
Other assets	28.5	0.8%	39.0	1.1%	41.8	1.1%	37.5	0.9%	42.1	0.9%
Total	**3,385.3**	**100%**	**3,637.1**	**100%**	**3,869.8**	**100%**	**4,185.5**	**100%**	**4,755.7**	**100%**

Figure 7: Structure of banking sector assets
Source: CBK (2019) Annual report

Figure 8 presents the loans given to enterprises and households between 2016-2019. The Banking sector loans in 2019 amounted to 3.03 billion euros. Consumer loans too in Kosovo had a large presence in the loan portfolio of all commercial banks operating in the country. All commercial banks offer consumer loans.

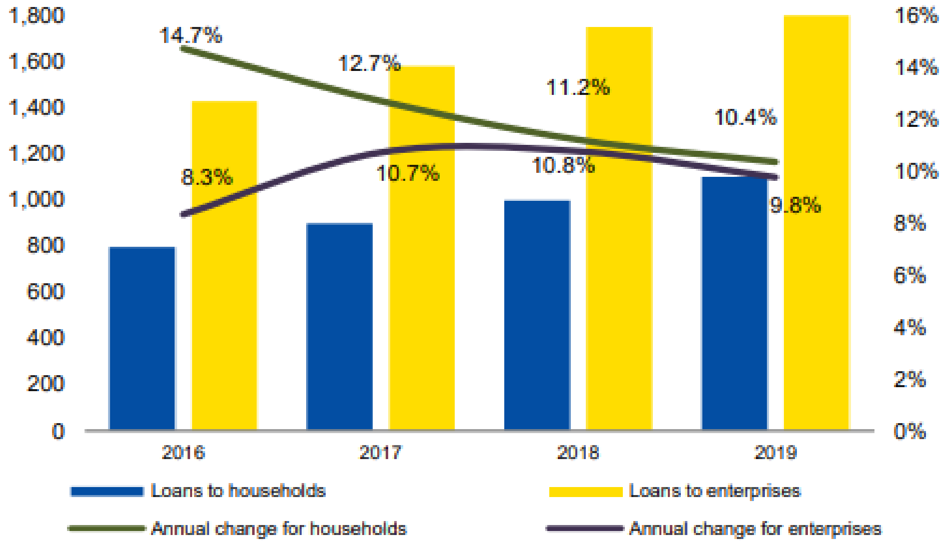

Figure 8: Loans to enterprises and to households
Source: *CBK (2019) Annual report*

Out of the total loans, consumer credit continued with an upward trend during 2019, while mortgage loans made a significant increase. In the same period, deposits in the banking sector of Kosovo reached the value of 3.91 billion euros and marked an annual increase of 16.2 percent compared to the previous year of 8.7 percent in 2018 (*CBK 2019, Annual report*).

From the legal point of view, several legal instruments have been developed regarding the regulation of consumer credit. The basic law for consumer credit was Law no. 06 / L-034 on Consumer Protection (Official Gazette of the Republic of Kosovo, No.1 / 14 June 2018, Prishtina) which affirms compliance with the EU Consumer Credit Directive. This law dedicated a special part to the regulation of consumer credit (Chapter IX of Law No. 06 / L-034 on Consumer Protection). It regulated general aspects of the relationship that may arise between the lender and the borrower. The law included many important elements including the total cost of consumer credit. When it came to the total cost of credit, the Directive specified that Member States should issue provisions governing this area. We dealt with various offers those financial institutions made for consumer loans but where it imposed to take other products in order to take advantage of the offer (cross selling).

At this point the directive was quite clear and obliged the client to be informed about these costs and to be included in the total cost (Article 22 of the Directive). Kosovo legislation has also provided information in the pre-contractual phase in accordance with the Directive, however we did not encounter any obligation for continuous consumer information as specified in the Directive. Article 87 specifies information on pre-contractual requirements for certain credit agreements in the form of overdrafts and for special credit agreements. Kosovan legislation has also stated several CBK regulations which complete the opus of EU regulation regarding consumer credit. Such an arrangement was appropriate given the possibility of changing European regulations however a systematization of this regulation would facilitate the process.

Discussion

EU Consumer Credit Directive

EU Consumer Credit Directive relates to 2008/48/EC of the European Parliament and of The Council of 23 April 2008 on credit agreements for consumers and repealing Council Directive vide 87/102/EEC. (Official Journal of the European Union,.2008). This directive was adopted on 23 April 2008 in order to harmonize consumer credit from a legal point of view with agreements and documents and other accompanying transactions where Directive 87/102 / EC did not have to harmonize to a satisfactory level.

The purpose of the directive is to regulate consumer credit which was a highly sought-after product within the European market, and thus to serve as an additional impact on the well-functioning of the EU internal market. The purpose of the Directive was to harmonize the legal regulation of consumer credit, to provide the EU client with equal treatment and adequate protection in all Member States. From a substantive point of view, the Directive regulates almost all relations that may arise between the provider and the recipient of the consumer loan, for instance:

i. *Standard information* to be contained in advertising. Advertising concerning credit agreements, which indicate an interest rate or an element of the cost of the credit, and includes standard information about all the cost elements of the credit by way of a representative example.

ii. *Pre-contractual information*: for all credit offers, the consumer will receive a Standardized European Consumer Credit Information (SECCI) sheet, to be used by all creditors at EU level. It sets out all the essential information which the consumer needs in a clear, standard way.

iii. *Annual Percentage Rate of Charge* (APR) - the Directive establishes an EU wide method of calculation for the APR, which expresses the total cost of the credit to the consumer, expressed as an annual percentage of the total amount of the credit.

iv. *Right of withdrawal* - once consumers have concluded a credit contract, they have 14 days to withdraw from the credit without having to give any reason.

v. *Right of early repayment* - the Directive grants to consumers the right to repay early at any time. Under certain circumstances, however, the creditor shall be entitled to fair and objectively justified compensation for possible costs directly linked to early repayment.

vi. *Creditworthiness* - the Directive also imposes an obligation on creditors to assess the creditworthiness of the consumer prior to granting a credit. Such assessment can be done by checking credit databases, for which the Directive imposes non- discriminatory conditions in the event of cross-border access to these databases

Some Inconsistencies of The Directive with The Kosovo Law and Challenges

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The discrepancies generally correspond to the sentences used in Kosovo legislation and leave room for maneuvering the lending institutions to decide on different situations. For example, in the part of pre-contractual information in Article 86 of the LCP where the law obliges the lender to inform the client, however we encounter the word "when applicable" while this sentence adds confusion and leaves room for financial institutions to inform the client at their discretion. The same sentence "when applicable" was used in the assessment of the creditworthiness of the borrower, where the assessment was made according to Article 89 - Obligation to assess the creditworthiness of the LMK customer. This depended on the information that the financial institution had received by the borrower or through Kosovo Credit Registry, if applicable. However, Article 8 of the Directive did not encounter any such confusion.
Another case where the wording of the Law differed from the Directive concerned notarial fees. For instance, Article 1.53 required: "the amount of fees paid by the consumer for notarial acts, if they are recognized by the creditor". It means that the Kosovo law required the creditor to declare the amount of fees, i.e., not the simple fact that there are some notarial fees payable while the Directive specifies Article 10 (n) "where applicable, a statement that the notary fees will be payable" obliging the lender for the notary fee whenever this fee is applicable. This causes a lack of information in the lending process because the client often has to pay fees and other ancillary and municipal fees to secure the loan with additional collateral.
On the front of consumer credit, the practice of Kosovar banks was flawed for more basic products. During their operation we noticed inconsistencies with best practices in some respects. When it came to information, remarks started from the placement of price lists in some corners of banks and were difficult to read. The price lists of banks placed on their websites were not always understandable. The other challenge of Kosovan law with the Directive was total cost of consumer credit. As it is specified in the Article 22 of Directive "*Member States should remain free to maintain or introduce national provisions prohibiting the creditor from requiring the consumer, in connection with the credit agreement, to open a bank account or conclude an agreement in respect of another ancillary service, or to pay the expenses or fees for such bank accounts or other ancillary services."*
From banking practice, it can be concluded that all banks condition customers to receive other products when they received a consumer credit (credit insurance, credit card, overdraft) and these were additional costs for bank clients. The challenge was the practice of closing the loan according to internal procedures or when the customer is obliged to visit the branch where the loan was taken. Such practices can harm the client in the face of lending institutions so an improvement of these practices is needed.

Conclusions and Recommendations

In most jurisdictions, consumer credit is covered by the law on consumer protection (Albania, Montenegro, Northern Macedonia, Kosovo) while in some jurisdictions (Serbia), general consumer credit is legally covered by a separate law and system of civil law. At European level, credit agreements under EUR 200 are not covered by the Consumer Credit Directive. On the other hand, consumer credit is one of the most basic products that a Kosovar customer turns to the bank to be its customer. Considering that financing the needs of consumers / individuals is possible through credit financing, it is important that the Kosovo banking market has harmonized and regulated this product in line with EU legal requirements. Legal regulation according to EU practices would enable the banking client of Kosovo a favorable position towards financial institutions as consumer credit providers.

It is evident that Kosovo made significant steps in the legal regulation of consumer credit. The Law on Consumer Protection even specified the compliance of this Law with the European Consumer Credit Directive no. 2008/100. The implementation of the Law on Consumer Protection remains a challenge in several aspects such as informing the client about the total cost of the loan should be at the agents of commercial banks. The lay consumer does not know his obligations, so commercial banks must be very careful in this part and correctly inform the client about all the rights and obligations that arise when obtaining a consumer loan. In this part, the research concludes that the CBK together with the KBA can play an active role in informing clients through their activities in the field of financial education.

In this regard, it is recommended that CBK inspection in banking institutions should focus on consumer credit. The CBK should approve the instructions on information for the guarantor which would oblige the banks to inform the guarantor about the obligations arising from it as a party to the loan. This is a very appropriate step that the CBK took by informing all parties involved in the loan. In consumer loans, banks often asked for the involvement of co-borrowers and guarantors, while the latter did not always receive the necessary information regarding the contractual obligations when signing the loan agreement. Advertising of consumer credit must also be in accordance with the instructions of the LCP and the Regulation of the Central Bank of Kosovo on Disclosure and Effective Interest Rate. The advertising phase is an important phase which made an impact on the client's initiative to enter into a credit relationship with the bank. It is strongly recommended that these aspects should be on the agenda of the CBK examination of lending institution.

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