



*The Influence and Effects of EU Business Law  
in the Western Balkans*

**1<sup>st</sup> EU Business Law Forum**

**Florina Popa – Dan-Adrian Cărmădariu:  
Romania’s Alternative Dispute Resolution  
Centre for the Banking System: Turning a  
Good Theory into a Bad Practice?  
(abstract)**

**Széchenyi István University | Faculty of Law and Political Sciences |**

**Centre for European Studies**

**15 – 16 June 2017 | Győr | Hungary**

The conference is carried out within the research stream of “Jean Monnet Module on EU Business Law” (EUBLAW) funded by the Erasmus+ Programme



## **Romania's Alternative Dispute Resolution Centre for the Banking System: Turning a Good Theory into a Bad Practice?**

Florina Popa, Lecturer, PhD  
Dan-Adrian Cărămidariu, Research Assistant, PhD Student

*West-University of Timișoara,  
Faculty of Law, Centre for Business Law*

### **Abstract**

The present paper analyzes critically the effectiveness of remedies provided by the Romanian Government's Ordinance No 38/2015 regarding alternative dispute resolution for consumer disputes, which transposes into Romanian national law Directive 2013/11/EU on alternative dispute resolution for consumer disputes, especially the procedure applying to consumer credit issues. After almost a decade of on-going judicial disputes between overindebted credit consumers and banks regarding especially unfair contract terms and, starting with 2015, hardship clauses connected to consumer credits granted in foreign currencies, the Alternative Dispute Resolution Centre for the banking system, established by Ordinance No 38/2015, has proven rather ineffective, its results being rather modest. Most Romanian consumers are still suing the lending banks rather than making use of alternative dispute resolution models; the ones provided by Ordinance No 38/2015 are either unknown or, in many cases, regarded with high mistrust. The paper tries to summarize and explain the causes of this negative evolution, stemming from a great extent in the unsatisfactory quality of the transposing national text and the national negative campaign against the Alternative Dispute Resolution Centre, its functioning rules and procedures. As such, the paper argues that in practice, the transposing measure for Directive 2013/11/EU and the subsequent design of the Alternative Dispute Resolution Centre for the banking system is a state-of-the-art example of how to turn the good will of the European legislator into an ineffective remedy, helping neither banks nor the Romanian consumers in helping neither banks nor Romanian consumers in ending disputes which have been going on for years.

**Key-words:** alternative dispute resolution models, consumer credits, overindebtedness