Quddiem l-Arbitru għas-Servizzi Finanzjarji

Każ ASF 094/2026

XG u GG

K.I. Nru 0095477M u 0647318L

('l-Ilmentaturi')

vs

Bank of Valletta p.l.c. (C-2833)

('BOV', 'il-Bank' jew 'il-Fornitur tas-Servizz')

Seduta tal-25 t'Awwissu 2026

L-Arbitru,

Wara li ra l-Ilment[1] magħmul kontra l-BOV dwar żewġ pagamenti ta' €65 il-wieħed li ttieħdu mill-kont tal-Ilmentatriċi biex jiġi kkreditat kont ta' self (*loan*) li l-Bank kien fetaħ f'isem il-koppja wara li l-*card* f'isem l-Ilmentatur ġiet imwaqqfa u l-bilanċ dovut ġie konvertit f'*loan*.

Huwa spjega li l-qofol tal-ilment kien:

> *"4. Grounds of Complaint*
>
> *I respectfully submit that the Bank failed to act in accordance with principles of good banking practice and fairness in that:*
>
> *1. The Bank converted an existing credit facility into a loan without obtaining my prior informed consent or signed agreement.*

[1] Paġni (p.) 1 - 9 u paġni annessi p. 10 - 21

2. The Bank failed to follow through on its commitment to contact me and formally regularize the facility before implementation.

3. A transfer was executed involving my spouse's separate account despite the absence of any joint banking arrangement.

4. The transaction description provided was unclear and caused justified concern.

5. Documentation relating to the alleged loan was provided only after the complaint was lodged.

6. The handling of the matter resulted in unnecessary distress, confusion, and inconvenience.

While the Bank has argued that the matrimonial regime of community of acquests applies, I submit that such regime does not remove the Bank's obligation to ensure transparency, proper authorization, and fair procedural handling when restructuring personal credit facilities."[2]

Bħala rimedju talab lill-Arbitru:

1. Jistħarreġ jekk il-Bank mexiex miegħu b'korrettezza u skont prattiċi bankarji tajbin.

2. Jiddetermina jekk BOV kienx awtorizzat jikkonverti l-bilanċ tal-*credit card* f'*loan joint* mingħajr il-kunsens tiegħu.

3. Jordna lil BOV jirregolarizza xi abbuż li sar u li jħallas €500 lill-Ilmentatur tal-inkwiet u l-inkonvenjenza li ħoloq meta ġibed il-pagamenti mill-kont ta' martu.

[2] P. 5

Id-dati prinċipali relevanti huma dawn:

18.11.2025	Il-*card* tal-Ilmentatur kienet aktar minn 90 ġurnata b'lura mill-pagamenti u kienet teċċedi l-limitu ta' kreditu abbinat magħha.[3]
19.11.2025	L-Ilmentatur wiegħed li kien ser jirregolarizza sal-aħħar ta' Novembru 2025.
01.12.2025	Wara li ma sarux pagamenti mwiegħda beda proċess biex il-*card* tiġi ffriżata u l-bilanċ jinqaleb f'*loan*.
13.01.2026	Infetaħ il-*loan* f'isem il-koppja. Ħarġet *sanction letter* tal-*loan* f'isem il-koppja.[4] [5]
09/02/2026	Inġibed l-ewwel pagament għal-*loan* mill-kont tal-Ilmentatriċi wara li l-pagament li kellu jsir 31.01.2026 ma sarx.
17.02.2026	L-Ilmentatur bagħat ittra ta' protesta lill-Bank.[6]
20.02.2026	Il-Bank wieġeb li la s-self kien f'isem *joint,* kellu dritt jiġbed il-pagament mill-kont tal-Ilmentatriċi.[7]
11.03.2026	Sar pagament ieħor ta' €68 mill-kont tal-Ilmentatriċi wara li ma sarx il-pagament dovut fl-aħħar ta' Frar 2026.

Risposta

Ikkunsidra wkoll fl-intier tagħha, ir-Risposta tal-Fornitur tas-Servizz[8]

Fejn il-BOV spjega u ssottometta kif ġej:

"

10. *Whereas the relationship between the Bank and [Complainant] in respect of the credit card facility was governed by the BOV Visa Classic Card Terms and Conditions,*[9] *which were contractually accepted upon issuance and*

[3] P. 34
[4] P. 18 - 21
[5] P. 17 l-Ilmentatur isostni li din irċeviha biss fis-26.02.2026.
[6] P. 10
[7] P. 11
[8] P. 25 - 31, u paġni annessi p. 32 - 46
[9] Doc. C

continued use of the facility. In terms of Article 992(1) of the Civil Code (Chapter 16 of the Laws of Malta), 'Contracts legally entered into lawfully entered into have the force of law between the contracting parties'.[10] *Accordingly, the rights and remedies expressly reserved to the Bank under the said terms and conditions are contractually binding on the Customer. Clause 6(f)*[11] *of the BOV Visa Classic Card Product Information Guide expressly provides that, in circumstances of default or non-payment, the Bank may debit any account held by the Customer with the Bank in settlement of amounts due, without prejudice to its right to terminate the agreement. By accepting and operating the credit card facility, the Customer agreed in advance to be bound by these contractual consequences in the event of default;*

11. *Whereas it is not disputed that [Complainant's] credit card facility had fallen into arrears and remained overdue notwithstanding multiple reminders and follow-ups issued by the Bank. The Bank further issued a formal 90-day overdue letter dated 18th November 2025, which expressly warned that failure to regularise the arrears would result in cancellation of the card and transfer of the outstanding balance into a credit card loan. Following [Complainant's] continued inaction, the Bank exercised its contractual rights and cancelled the revolving credit facility, transferring the outstanding balance into a structured loan. The conversion of a persistently overdue credit card balance into a term loan constitutes a recognised banking measure following default, aimed at regularising the exposure and establishing a defined repayment schedule. Such conversion did not constitute the granting of a new voluntarily negotiated facility requiring renewed bilateral consent but rather arose as a contractual consequence of default and termination of the original facility in accordance with the agreed terms. The subsequent issuance of the loan sanction letter served to notify the Complainants of the repayment mechanics governing the transferred balance and did not operate as a condition precedent to the validity of the transfer itself;*

[10] "*Contracts legally entered into shall have the force of law for the contracting parties*". [Article 992(1)].

[11] "*In the event that you do not affect payment as agreed, or if you are in default […] the Bank may, debit any accounts held by you with the Bank, with all or part of any amount due, interest and charges. This shall be without prejudice to the Bank's right to terminate the Agreement*."

12. *Whereas [Mr Complainant] is married, Maltese law presumes that the marriage is subject to the community of acquests. Under this regime, debts and obligations contracted jointly by the spouses, or for the benefit of the household, are considered to be liabilities of the community and are enforceable against the joint patrimony of the spouses. Accordingly, the Bank was entitled to treat the restructured credit facility as a liability affecting the community of acquests and to enforce it against the joint estate, without distinguishing between the spouses;*

13. *Whereas the inclusion of [Mrs Complainant) as joint borrower in the restructured credit card loan was legally justified by virtue of the applicable matrimonial regime and the need to ensure enforceability of the obligation against the joint patrimony. On the 9th of February 2026, a sum of €65 was transferred from [Mrs Complainant's] account and applied towards arrears on the credit card loan. This transaction was affected in application of the Bank's contractual rights and constituted an internal adjustment towards satisfaction of a joint liability affecting the community of acquests. It did not constitute a third-party payment, nor did it involve the use of funds for a purpose extraneous to the joint obligation;*

14. *Whereas the allegation that the Bank breached data protection obligations is misconceived and unsupported by fact or law. No personal data was disclosed to an unauthorised third party. [Mrs Complainant], as a joint borrower under the restructured loan and as a spouse within the community of acquests, was already legally entitled to visibility of obligations affecting the joint patrimony. The mere processing of a transaction in fulfilment of a joint debt does not amount to an unlawful disclosure under Regulation (EU) 2016/679. On the contrary, the processing complained of was necessary for the performance of a contract and for compliance with the Bank's legal and contractual obligations;*

15. *Whereas the Bank notes that the Complainants have quantified their claim for compensation in the sum of €500, purportedly for distress, inconvenience, and alleged procedural shortcomings, yet have failed to present any evidence whatsoever in support of this claim. In this regard, the Bank refers to the judgement of the Court of Appeal in the names*

<u>Marks and Charles Limited v. Bank of Valletta plc</u> (267/2006/1) decided on the 26th of February 2026, wherein the Court held that a person who claims to have suffered damage or loss must properly prove not only the existence and quantum of such damage or loss, but also that it is the direct consequence of the conduct of the defendant.[12] *In the present case, as previously stated, the Complainants have not provided any evidence of actual loss or destress, nor have they demonstrated any causal link between the Bank's actions and the alleged inconvenience. On the contrary, any inconvenience suffered is solely attributable to [Mr Complainant's] own persistent default and failure to regularise his account, despite repeated reminders and a formal 90-day overdue notice sent to his registered address. Importantly, the address to which the Bank's correspondence was sent is identical to the address provided by the Complainant in the present complaint, leaving no credible basis for any allegation that the notification was not received. In these circumstances, the claim for compensation is not only legally and factually unfounded but also constitutes an attempt to shift responsibility for the Complainant's own defaults onto the Bank. The Bank respectfully requests that this aspect of the claim be dismissed in its entirety;"*

Seduti

Fl-ewwel seduta li nżammet fil-15 ta' Mejju 2026, l-Ilmentatur spjega dak li kien qal fl-ilment u enfasizza li kien irċieva s-*sanction letter* tal-*loan* biss fis-26 ta' Frar 2026, wara li kien diġà ttieħed l-ewwel pagament, u li huwa qatt ma kien aċċetta jew iffirma s-*sanction letter*.

Fil-kontroeżami qal:

"Asked whether I agree that my account fell into arrears on more than one occasion, I say, yes, I confirm that.

[12] *"Dan iġib ukoll il-konsegwenza li l-persuna li tallega li ġarrbet il-ħsara jew dannu trid tipprova kif imiss mhux biss il-ħsara jew id-dannu mġarrab iżda wkoll li dak id-dannu huwa l-effett konsegwenzjali tal-għemil tal-parti konvenuta bħala l-persuna mixlija bir-responsabbiltà tiegħu (ara Giovanni Vella et v. Michael Cilia maqtugħa mill-Qorti tal-Appell fit-23 ta' Ġunju 2004)."* (Page 16 of the Judgement)

Asked to confirm that I agreed with the bank to repayment plans which I failed to honour, I say that this was twenty years ago, and I do not recall what I did twenty years ago.

It is being said that this is about my credit card which fell into arrears.

Asked whether this is correct, I say, yes.

It is said that I agreed with the bank to repayment plans in this regard.

I say that I agreed with those terms and conditions related to the card.

Asked whether I read the bank's reply to the complaint, I say that I received this. I had a look at it but I do not remember what was in it.

It is said that I agreed to repayment plans with the bank regarding the credit card balance.

Asked whether this is correct, I say, yes, there was an agreement.

It is said that I failed to honour these repayment plans. I say, yes.

It is said that by November 2025, my account was overdue by 90 days.

Asked whether this is correct, I say it could be because I was contacted by the bank sometime in December.

I was asked by the bank if it would be alright if we set up a meeting, that I would receive an appointment for a meeting in order to discuss moving this credit card into a credit card loan.

It is said that I was informed about this meeting, I say I was informed over a phone call if it were alright to set up a meeting so we will dicuss about this matter.

But I have never been contacted again on when this meeting was going to be held and how it was going to be held.

I say I have never been to the bank, I have also been informed that the bank needed to update my profile since my last update was made a couple of years ago.

It is said that I received the bank's letter dated 18 November 2025.

Asked whether this is correct, I say, no, I did not receive this letter. I only received a phone call in December.

I am referred to Document B, attached with the bank's reply to my complaint. This is a letter dated 18 November 2025, addressed to the same address that I filed with my complaint which is 234 Les Lapins, Block A, Flat 5, Vjal Indipendenza, Mosta.

I say that is the correct address but I do not recall if I received it or not.

Asked whether I regularised my account after the written warning and the telephone call that a loan conversion could occur, I say, no, because the latest thing that I had was the phone call with a representative of the bank where it was agreed that I will be contacted again to see how we were going to move forward with this which never occurred.

It is said that the default to settle the credit card balance remains to this day. I say, no. I am making the repayments now. I am still waiting for a final reply on what is going to happen.

It is said that because I was not contacted again to agree on a programme, I had no obligation to repay the loan.

I say, no. I am not saying that I have no obligation. I am saying that I wanted to know the way forward, how much the repayment is going to be.

It is being said that in the meantime, I was waiting for this but I did not think it proper to start making the payments.

I say that I did not know how much they would ask me to repay every month.

It is said that at the time of the €65 transfer on the 9 February 2026, there were still outstanding arrears. Asked whether it is correct to say that the amount was applied towards those arrears, I say that I know now because I queried on what happened because they were applied and we did not know why they were applied.

It is said that I was informed that this transfer related to a loan repayment, I say that we were informed afterwards. The repayment was taken from my wife's account.

Asked whether we are married and subject to the community acquists regime, I say that I am married but I am not a legal person who can answer the rest of this question.

Asked whether I have ever signed a separation of assets with my wife, I say, no.

Asked on what basis I am requesting €500 compensation from the bank, I say that obviously my wife was not aware of this. We were informed of this when we were together at the bank asking about it. My wife did not know about this. I have been using the Mastercard and the VISA cards since I was at school.

So, it was something that my wife did not know about and this created a situation which was not comfortable.

Asked why I am asking for €500 compensation and to show how I came to this amount, I say because of the stress and embarrassment caused.

To summarise, it is said that there was an outstanding balance which I was warned about by the bank that the card will be cancelled and converted into a loan but I still did not regularise that account.

Asked whether this is correct, I say that part of it is correct but I do not agree that I did not regularise my account."[13]

Seduta oħra nżammet fis-26 ta' Ġunju 2026 għall-provi tal-Bank fejn xehed Stefan Polidano bħala *Lead Retail Collections Unit* ta' BOV li kkonferma t-*timeline* li kien spjegat qabel[14] u kkonferma r-risposta li kien ressaq BOV.

Waqt kontroeżami huwa qal:

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[13] P. 48 - 50

[14] Peress li f'Doc A, anness mar-risposta ta' BOV (p. 32 -33), kien hemm xi ineżattezzi, BOV bagħat kjarifika kif mitlub mill-Arbitru, p. 55 - 57

"Mistoqsi x'inhuma d-dati meta ttieħdu l-pagamenti mill-kont tas-Sinjura, ngħid li l-pagamenti ttieħdu nhar id-9 ta' Frar 2026 u l-11 ta' Marzu 2026 ta' €68 kull wieħed.

Minn dakinhar 'l hawn naħseb li kienet qed tiġi settled mod ieħor għax ma tteħdux pagamenti.

Ngħid li kopja tal-istatement ma għandix quddiemi, però, nista' nikkonferma li l-loan mhux qiegħda b'lura żgur. Il-pagamenti qed isiru."[15]

Sottomissjonijiet finali

L-Ilmentatur enfasizza li hu mhux qed jiċħad li l-ammont kien dovut iżda joġġezzjona kif id-debitu tal-*card* inqaleb f'*loan* bla ftehim miegħu u li l-pagamenti bdew jittieħdu mill-kont ta' martu. B'hekk, il-Bank kien ikkawża diżgwid bejn il-koppja.[16]

BOV għamlu sottomissjonijiet twal li rrepetew dak li kienu qalu fir-risposta u waqt is-seduti u enfasizzaw li skont il-Kodiċi Ċivili,[17] kellhom dritt jikkonvertu d-debitu tal-*credit card* f'isem il-koppja u li jieħdu l-pagamenti li ma jsirux fil-ħin minn kontijiet individwali ta' xi wieħed jew waħda mill-koppja. Insistew li s-*sanction letter* datata 13 ta' Jannar 2026 kienet intbagħtet fl-indirizz korrett. Kien hemm okkażjoni qabel fejn l-Ilmentatur qal li ma jiftakarx jekk kienx irċieva ittra datata 18 ta' Novembru 2025 mibgħuta fl-istess indirizz.[18]

Saħqu wkoll li d-danni mitluba mhux dovuti għax ma ġiet ippreżentata l-ebda evidenza dwarhom.

Analiżi u kunsiderazzjoni

L-Arbitru jiddeċiedi dan il-każ skont kif provdut f'Artikolu 19(3)(b) ta' KAP. 555 b'referenza għal dak li, fil-fehma tiegħu ikun ġust, ekwu u raġonevoli fiċ-ċirkostanzi partikolari u merti sostantivi tal-każ.

[15] P. 53
[16] P. 61
[17] KAP. 16, artikoli 1316, 1327(c)(d), 1229, 1326,
[18] P. 49

M'hemmx dubju li l-Ilmentatur b'mod ċar ma kienx qed jonora l-obbligi abbinati mal-*credit card* u li BOV kienu ilhom joħorġu talbiet, *reminders* u ittri ta' notifiki biex iwissu lill-Ilmentatur li jekk mhux ser jiġi għall-ordni skont ir-regolamenti tal-*card,* allura l-*card* kienet ser tiġi rtirata u l-Bank jieħu passi biex jiġbor il-bilanċ dovut.

Il-konverżjoni ta' bilanċi skoperti f'*loan* biex id-debitu jitħallas b'mod gradat hija prattika bankarja normali. Il-fatt li l-Bank iffissa pagamenti mensili li jestendu l-programm ta' ħlas lura fuq perjodu ta' sentejn juri wkoll ċerta sensittività biex il-klijent ikollu ċans jottempra ruħu b'mod gradat.

Għalhekk l-Arbitru ma jsib ebda nuqqas minn naħa ta' BOV rigward il-konverżjoni f'*loan* anke jekk din saret mingħajr qbil espliċitu mal-Ilmentaturi. Is-*sanction letter* ħarġet datata 13 ta' Jannar 2026 filwaqt li l-Ilmentatur jgħid li rċeviha lejn l-aħħar ta' Frar meta f'diskussjoni mal-Bank kien infurmat b'din is-*sanction letter* li huwa jsostni li ma kienx irċievа. Ma jfissirx li din hija prova li l-Bank ma nnotifikax lill-Ilmentatur li s-self kien ser jinqaleb f'*loan*, speċjalment in vista ta' ħafna notifiki li intbagħtu qabel.

Skont il-Kodiċi Ċivili, il-Bank kellu dritt li s-self jinħareġ f'isem il-koppja u li jekk ma jsirux il-pagamenti stipulati, dawn jittieħdu mill-kont ta' xi wieħed jew waħda mill-partijiet fejn ikun hemm biżżejjed fondi. Huwa sinjifikanti li anke wara li kellu f'idejh is-*sanction letter* fis-26 ta' Frar 2026, il-pagament tal-aħħar ta' Frar 2026 xorta ma sarx u kellhom jerġgħu jittieħdu mill-kont tal-Ilmentatriċi fil-11 ta' Marzu 2026.

Jekk kien hemm xi inkonvenjent kawżat dan ma kienx ħtija tal-Bank. Kif jidher wara li saru ż-żewġ pagamenti ilmentati, bdew isiru pagamenti regolari għax jidher li ċ-ċirkostanzi taw tagħlima f'waqta lill-Ilmentatur.[19]

Għalhekk l-Arbitru ma jarax li hemm lok li BOV jinstab ħati ta' danni kif pretiż mill-Ilmentatur.

[19] P. 58 - 59

Deċiżjoni

Għal raġunijiet hawn spjegati, l-Arbitru qed jiċħad dan l-ilment u jordna li l-partijiet iġorru l-ispejjeż rispettivi tagħhom.

Alfred Mifsud
Arbitru għas-Servizzi Finanzjarji

<u>Nota ta' Informazzjoni relatata mad-deċiżjoni tal-Arbitru</u>

Dritt ta' Appell

Id-Deċiżjoni tal-Arbitru legalment torbot lill-partijiet, salv id-dritt ta' appell regolat bl-artikolu 27 tal-Att Dwar l-Arbitru Għas-Servizzi Finanzjarji (Kap. 555) ('l-Att'), magħmul quddiem il-Qorti tal-Appell (Kompetenza Inferjuri) fi żmien għoxrin (20) ġurnata mid-data tan-notifika tad-Deċiżjoni jew, fil-każ li ssir talba għal kjarifika jew korrezzjoni tad-Deċiżjoni skont l-artikolu 26(4) tal-Att, mid-data tan-notifika ta' dik l-interpretazzjoni jew il-kjarifika jew il-korrezzjoni hekk kif provdut taħt l-artikolu 27(3) tal-Att.

Kull talba għal kjarifika tal-kumpens jew talba għall-korrezzjoni ta' xi żbalji fil-komputazzjoni jew klerikali jew żbalji tipografiċi jew żbalji simili mitluba skont l-artikolu 26(4) tal-Att, għandhom isiru lill-Arbitru, b'notifika lill-parti l-oħra, fi żmien ħmistax (15)-il ġurnata minn notifika tad-Deċiżjoni skont l-artikolu msemmi.

Skont il-prattika stabbilita, id-Deċiżjoni tal-Arbitru tkun tidher fis-sit elettroniku tal-Uffiċċju tal-Arbitru għas-Servizzi Finanzjarji wara li jiskadi l-perjodu tal-appell. Dettalji personali tal-ilmentatur/i jkunu anonimizzati skont l-artikolu 11(1)(f) tal-Att.