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## It's All About the Money. Or Is It? Consumers' Experiences with the Financial Services Complaints Institute (Kifid) in the Netherlands

Hertogh, Marc; Wever, Marc; Marseille, Bert

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Marc Hertogh\*, Marc Wever and Bert Marseille  
**It's All About the Money. Or Is It?**

Consumers' Experiences with the Financial Services Complaints Institute (Kifid) in the Netherlands

## Es geht (nicht) nur um das Geld

Erfahrungen der Verbraucher mit dem Beschwerdestelle für Finanzdienstleistungen (Kifid) in den Niederlanden

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**Abstract:** The Dutch Financial Services Complaints Institute (Kifid) offers a form of alternative dispute resolution (ADR) to consumers who have a complaint about a financial product or a financial service. Kifid first tries to mediate between the consumer and the financial services provider. If mediation fails, the Arbitration Commission will issue a binding decision. Using a survey among recent Kifid users (N = 506), this paper asks: how do consumers experience the Kifid complaints procedure, and to what effect? This study confirms the general finding from earlier research that procedural justice plays an important role in complaint procedures. The overall Kifid satisfaction level is shaped by both the perception of the process and the outcome of the complaints procedure. Moreover, if consumers experience more procedural justice, they are more willing to accept their Kifid decision. While most previous studies were limited to users' experiences with ADR in general, this paper distinguishes between two different ADR mechanisms. The results indicate that those consumers whose complaint was solved by mediation experienced more procedural justice than those whose case was settled by arbitration. Moreover, the first group of consumers gives Kifid a (much) better overall score than the second group.

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\***Korrespondenzautor:** Marc Hertogh, University of Groningen, Faculty of Law, P.O. Box 716, 9700 AS Groningen, The Netherlands, Phone: +31 50 363 86 04, Fax: +31 50 363 56 74, E-Mail: M.L.M.Hertogh@rug.nl

**Marc Wever**, University of Groningen, Faculty of Law, P.O. Box 716, 9700 AS Groningen, The Netherlands, Phone: +31 50 363 86 04, Fax: +31 50 363 56 74, E-Mail: marc.wever@rug.nl

**Bert Marseille**, University of Groningen, Faculty of Law, P.O. Box 716, 9700 AS Groningen, The Netherlands, Phone: +31 50 363 86 04, Fax: +31 50 363 56 74, E-Mail: a.t.marseille@rug.nl

**Zusammenfassung:** Die niederländische Beschwerdestelle für Finanzdienstleistungen (Kifid) bietet Verbrauchern, die eine Beschwerde über ein Finanzprodukt oder eine Finanzdienstleistung haben, eine Form der alternativen Streitbeilegung (ADR) an. Kifid versucht zunächst, zwischen dem Verbraucher und dem Finanzdienstleister zu vermitteln. Scheitert die Mediation, erlässt die Schiedskommission eine verbindliche Entscheidung. Anhand einer Umfrage unter aktuellen Kifid-Nutzern (N = 506) fragt dieser Beitrag: Wie erleben Verbraucher das Kifid-Beschwerdeverfahren und mit welchem Effekt? Diese Studie bestätigt die allgemeine Erkenntnis aus früheren Untersuchungen, dass Verfahrensgerechtigkeit (procedural justice) eine wichtige Rolle in Beschwerdeverfahren spielt. Der allgemeine Zufriedenheitsgrad von Kifid wird sowohl von der Wahrnehmung des Prozesses als auch vom Ergebnis des Beschwerdeverfahrens geprägt. Wenn die Verbraucher mehr Verfahrensgerechtigkeit erfahren, sind sie außerdem eher bereit, ihre Kifid-Entscheidung zu akzeptieren. Während die meisten früheren Studien auf die Erfahrungen der Benutzer mit ADR im Allgemeinen beschränkt waren, unterscheidet dieser Beitrag zwischen zwei verschiedenen ADR-Mechanismen. Die Ergebnisse deuten darauf hin, dass diejenigen Verbraucher, deren Beschwerde durch Mediation gelöst wurde, mehr Verfahrensgerechtigkeit erfahren als diejenigen, deren Fall durch ein Schiedsverfahren beigelegt wurde. Darüber hinaus gibt die erste Gruppe von Verbrauchern Kifid eine (viel) bessere Gesamtpunktzahl als die zweite Gruppe.

**Keywords:** procedural justice, financial services, ADR, mediation, arbitration

Dutch consumers with a complaint about a financial product or a financial service, such as a mortgage or insurance, can contact the Financial Services Complaints Institute (Kifid). Kifid helps these consumers to solve their problem with their bank or insurer through mediation or a legally binding decision of its Arbitration Commission and thus offers a relatively cheap and easy alternative to the court. Kifid is one of the four alternative dispute resolution (ADR) bodies<sup>1</sup> designated by the Dutch government in accordance with the EU Directive on consumer ADR.<sup>2</sup> In 2019 (when the fieldwork for this study was conducted), Kifid received more than 4,500 complaints, of which just over 3,400 were dealt with substantively (Kifid 2019). In an international comparative study of consumer ADR institutions in ten EU Member States, the Dutch ADR-system (including Kifid) was positively

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<sup>1</sup> The other three are the Dutch Foundation for Consumer Complaints Boards, the Dutch Foundation for Health Insurances Complaints and Disputes and the Rent Tribunal.

<sup>2</sup> Directive (EU) Nr. 524/2013. Pb EU L 165/1.

evaluated (Hodges et al. 2012: 164–165). However, Kifid has also been strongly criticized. According to several Dutch consumer organizations and legal scholars, the complaints procedure is too legalistic and Kifid is not responsive to the needs and concerns of consumers (Kifid 2015: 22; Cherednychenko 2015; Ernste 2015). In 2016, as a response to this criticism, Kifid introduced a ‘new philosophy of complaint handling’. According to this philosophy, their central ambition is to provide a new approach to complaint-handling, which is: transparent, impartial, concerned with the real concerns of the consumer and which prefers an amicable solution over a formal decision (Ruinaard 2017). In designing its new philosophy, the Kifid-director explains that ‘Kifid [...] was inspired by the principles of procedural justice.’ (Ruinaard 2007: 11; our translation).<sup>3</sup> Moreover, she claims that ‘[f]or Kifid, it’s important to take all parties seriously, listen carefully, show respect, provide information about the complaint procedure and facilitate a good balance between the parties’ (Ruinaard 2017: 11). In line with the new philosophy to complaint handling, Kifid now always attempts to solve disputes through mediation. Only if the mediation stage of the procedure does not lead to a solution that is to the satisfaction of both claimant and financial service provider, the matter is put before the arbitration commission.

In this paper, we will focus on consumers’ experiences with the Kifid complaints procedure and we will assess if and how the new ‘philosophy of complaint-handling’ has made a difference. To analyze this, we will present the findings of an online survey among more than 500 recent Kifid users (Hertogh et al. 2021). In our analysis, we will use the conceptual framework of procedural justice (Tyler 1990; Creutzfeldt & Bradford 2016). This theory predicts that ‘people are more likely to accept the outcome of a decision if they perceive the process as fair, even if the outcome is not in their favour’ (Williams et al. 2020: 276). Our study makes three contributions to the literature. Firstly, there are still only very few studies on consumers’ experiences with ADR institutions. Secondly, there is relatively little empirical research using the procedural justice framework to explore consumer experiences (Williams et al. 2020: 277). Thirdly, those few studies that have used this framework to study consumer disputes show that consumers may have firm expectations regarding the outcome (for instance: getting the desired financial compensation for a wrongdoing by a financial service provider), but they do not always have a clear idea of what to expect in terms of process. Therefore, some researchers suggest that procedural justice theory may be less applicable in financial disputes ‘where services are more transactional and the main

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<sup>3</sup> Unless indicated otherwise, all citations in this paper were translated from Dutch into English by the authors.

loss is financial' (Williams et al. 2020: 278). In this paper, we will test these claims and see if these reservations also apply to the way in which Kifid helps Dutch consumers to solve their problems with a financial service provider. Therefore, the three central research questions of this paper can be formulated as follows: How do consumers experience the Kifid complaints procedure? How important is procedural justice for consumers' satisfaction with Kifid? And how important is procedural justice for consumers' willingness to accept the Kifid decision? In other words, is it all about the money or are consumers' opinions and actions also motivated by other factors?

In the next section, we will first describe the different stages of the Kifid complaints procedure (section 2). Next, we will introduce our analytical framework which builds on the procedural justice literature (section 3). For this study, we have used an online survey among recent Kifid users (section 4). Based on the survey findings, we will discuss how consumers experience the Kifid procedure (section 5). Next, we will differentiate between the different elements of the Kifid procedure. While most previous studies were limited to users' experiences with ADR in general, our study distinguishes between two different ADR mechanisms. The findings show that those consumers whose complaint was solved by mediation experienced more procedural justice than those consumers whose case was settled by arbitration (section 6). In section 7, we will analyze the influence of procedural justice on consumers' satisfaction with Kifid and their willingness to accept the Kifid decision. In addition, we will discuss possible explanations for the most remarkable findings of this study (section 8). We will conclude with a brief summary. Moreover, we will show that our study is not only relevant from a Dutch perspective, but that our findings may also be relevant from the perspective of a general 'sociology of complaints bodies' (section 9).

## The Complaints Procedure at Kifid

Kifid helps to solve problems between consumers, their bank, insurer, intermediary or another financial services provider. Consumers who want to file a complaint with Kifid can fill in a complaint form on their website. At Kifid, it is not compulsory to have legal assistance, but consumers are free to seek legal advice. However, before consumers can file a complaint with Kifid, they first need to follow the internal complaints procedure of their financial services provider. Consumers can only approach Kifid if their financial services provider does not respond to their complaint within a few weeks, or if they received a letter stating that there is no solution to the problem raised by the complainant. When Kifid

receives a complaint, they first check if the complainant qualifies as a consumer, if the financial services provider is one of the parties that engage with Kifid and whether the complaint has been submitted on time (no later than three months after the end of the internal complaint procedure). Once these hurdles have been overcome, the complainant will be contacted by one of Kifid's case officers to answer any questions about the procedure and to discuss whether additional documents are needed.

The first phase of the procedure is the mediation phase. Together with the parties, the *case officer* first examines how the complaint can be resolved and whether mediation is possible. He will also ask the financial services provider to reconsider the complaint. If the consumer has proposed a solution, he will check if the financial services provider might accept this. Sometimes the mediation phase includes a hearing, sometimes it does not. If it is not possible to resolve the dispute at the mediation stage, the Kifid *Arbitration Commission* will consider the complaint. The Commission will also examine if mediation is possible and it decides whether or not the complaint will be dealt with at a hearing. The Kifid website states the following:

'Once we have received all the information, the Arbitration Commission assesses your case. Sometimes a solution can be found (either by letter or telephone) which is acceptable to both parties. The Arbitration Commission may also decide to ask you to come in for a face-to-face meeting about the case. Your financial services provider will also be present. This meeting will be held at the Kifid offices in The Hague. We call this meeting an Arbitration hearing. The Arbitration Commission will discuss the case with you and will put questions to both parties. Based on this input the Arbitration Commission will try to find a solution through mediation. If this is successful, your dispute is resolved and the case is closed.'

If it proves impossible to resolve the dispute by mediation, the Arbitration Commission will issue a binding decision. 'Binding' means that the consumer and the financial services provider are legally obliged to respect the decision.<sup>4</sup>

To summarize, there are four main routes through which a complaint can be resolved:

- mediation without a hearing
- mediation after a hearing
- arbitration without a hearing
- arbitration after a hearing

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<sup>4</sup> Kifid also offers a procedure with non-binding decisions. However, in more than 90% of the cases, consumers opt for the procedure with a binding decision.

In the event of a binding decision of the Arbitration Commission in relation to a complaint about € 25,000 or more, the case can be submitted to the Kifid *Appeals Board*. Consumers can also take the decision of the Arbitration Commission to a district court. Both forms of appeal are not included in this study.

## Analytical Framework

Kifid's 'new philosophy of complaint-handling' is inspired by the principles of procedural justice. The theory of 'procedural justice' (a term coined by Thibaut & Walker 1975) involves the criteria people use to assess the fairness of a procedure (Lind & Tyler 1988). While it is likely that there are no universally fair procedures for allocation and dispute resolution, several factors are consistently shown to increase perceived procedural justice: opportunities to actively participate in the decision-making process; the perceived neutrality of authorities; the degree to which people trust the motives of the authorities; and whether people are treated with dignity and respect during the process (Tyler 2000). Of course, people's evaluations of the fairness of proceedings depends not only on the fairness of the process. As Hollander-Blumoff (2011: 132) notes: 'Procedural justice scholars do not suggest that individuals are indifferent to the favorability or the fairness of their outcomes; those things do matter, and often matter a lot. But the additional component of fair treatment by a decision-making authority matters as well – and matters independently, apart from the effect that fair treatment has on fair and good outcomes.' Positive effects of higher levels of procedural justices (the so-called fair process effect) have been found to exist in many contexts. Increased levels of procedural justice were found to positively correlate to other important variables such as perceived outcome fairness (Casper et al. 1988), overall satisfaction with the authority (Van der Velde & Van den Bos 2010), fewer appeals against unfavorable decisions (Boekema 2015; Lind et al. 1993), trust in decision-making authorities like judges (Grootelaar & Van den Bos 2018) and compliance with the law (Tyler & Huo 2002, Walters & Bolger 2019).

Most of the literature on procedural justice is focused on the criminal law domain, for instance on the effects of behavior of police officers (Bradford et al. 2013; Tyler & Huo 2002) and the criminal courts (Lind et al. 1980). However, the conceptual framework of procedural justice has also been applied to ADR procedures like mediation and arbitration (Lind et al. 1990; Lind et al. 1993; Welsh 2002; Creutzfeldt & Bradford 2016). This research has shown that ADR 'disputants [who] have feelings of control and fairness, perceive the procedures and solutions to have greater legitimacy, and are more likely to comply with the terms of the

conflict resolution decision' (Creutzfeldt & Bradford 2016: 992). ADR procedures take many shapes and forms. Relevant to our study is the distinction between mediation and arbitration. Shapiro and Brett (1993) conducted a study in which 158 coal miners who had filed a grievance were assigned to either a mediation or an arbitration procedure to resolve their dispute. They found that procedural justice was higher in respondents assigned to the mediation procedure compared to respondents assigned to arbitration procedure. Brett and Goldberg (1993) found a similar difference between mediation and arbitration procedures.

These findings from previous studies can be translated into three hypotheses to be tested against data from a survey of recent Kifid users:

**Hypothesis 1.** Complainants' perceived procedural justice is higher with complainants whose complaint was resolved through mediation than with complainants whose dispute was resolved through arbitration.

**Hypothesis 2.** Complainants' satisfaction with Kifid is shaped by both the process (mediation/arbitration and perceived procedural justice) and the outcome (outcome favorability and distributive justice).

**Hypothesis 3.** There will be a positive association between procedural justice experienced by complainants and the willingness to accept the Kifid decision.

## Methodology

The data for this study are taken from an online survey. Between June 2019 and June 2020, consumers who recently completed a Kifid procedure were invited by email to participate in the survey. In total 1,687 were invited and 506 fully completed the survey, giving it a response rate of 30 percent. Our survey design is largely based on the questionnaire which was used in Creutzfeldt's (2016; 2018) comparative study of users' experiences with 14 (financial) complaint procedures in the UK, Germany and France. In the survey, consumers were asked to answer a number of questions regarding the various 'stages in a consumer's complaint journey' (Creutzfeldt & Bradford 2016: 1000) at Kifid: initial contact, the procedure, the outcome, and their overall experience. We also included measures of distributive justice and procedural justice through which we could analyze consumer's willingness to accept the outcome of their case (see below). The survey mostly contained closed questions. A number of these questions were followed by an open field, where the respondents had the opportunity to motivate their answer in their own words. These accounts are not (statistically) analyzed as such but are used to illustrate the survey results.



## Participants

The sample used for this study consists of 77 percent male respondents and 22 percent female. Only a small percentage of respondents (3 %) were between 18 and 30 years old, almost half of them (47 %) were between 31 and 60 years old, and the other half (48 %) was older than 60 years old. Most of the respondents (75 %) were well educated (pre-university, university or equivalent). Almost half of the respondents (43 %) reported a net monthly income between 2500 – 4000 Euro; 29 percent had a lower income and 28 percent had a higher income. A non-response survey was not conducted, so we do not know how well our sample represents the entire population of Kifid complainants.

## Measures

The first dependent variable in our study represented consumers' satisfaction with Kifid. A single item measure was used, taken from the survey question that asked 'If you had to give Kifid a score between 1 and 10, what grade would you give?' Responses were given on a 10-point scale. The second dependent variable represented consumers' willingness to accept the outcome of their case. A single item measure was used, taken from the survey question that asked 'Are you willing to accept the outcome of your case?' Responses were given on a five-category scale, ranging from 'no, very unwilling' to 'yes, very willing'. Since our study is concerned with what predicts acceptance of the outcome provided by Kifid, responses on this item were collapsed to generate a new binary variable, *outcome acceptance*, coded one if the respondent was 'very willing' or 'willing' to accept the outcome and zero if they were 'unwilling' or 'very unwilling' (see also Creutzfeldt & Bradford 2016: 1001). To measure our independent variables (procedural and distributive justice) we used two scales. The first scale represented consumers' perceptions of the *procedural justice* of the Kifid complaints procedure. Items here covered issues like voice, neutrality, respect and trustworthiness, all measured using a five-point Likert-type response scale. The second scale represented consumers' perceptions of the *distributive justice* of the Kifid decision in their case. Items used here covered issues such as the clarity, fairness and independence of the decision (all used the same five-point Likert-type response scale).

In the next three sections of this paper, we will first discuss the descriptives of the data gathered on the four variables introduced in this paragraph (sections 5 and 6), followed by the results of the multivariate analysis (section 7).

## How Do Consumers Experience the Kifid Complaints Procedure?

In this section, we will present the survey findings on consumers' experiences with the Kifid procedure, their perceived procedural justice, their views about the outcome of their case and their willingness to accept the outcome.

As indicated before, the Kifid complaints procedure can end through mediation or through arbitration. In both cases, the case can be settled with and without a hearing. Over half of the cases in which our respondents were involved ended with mediation (55 %) and just under half ended with arbitration (45 %).<sup>5</sup> Cases were more often decided without than with a hearing (79 % versus 21 %). In 16 % of the cases that ended through mediation a hearing was held, while in the cases that ended with arbitration, a hearing was held in 28 %. To assess the level of perceived procedural justice among complainants, we used the following seven statements: *The procedure took too long (reverse coded); I was able to give my opinion; The complaint handler understood my case; The complaint handler took me seriously; The complaint handler was impartial; I was treated kindly and with respect; I had the impression that I could trust the complaint handler.* All responses were measured using a five-point Likert-scale (1= *Disagree completely*, 5 = *Agree completely*). Cronbach's alpha showed the seven items had strong internal consistency ( $\alpha = .80$ ).

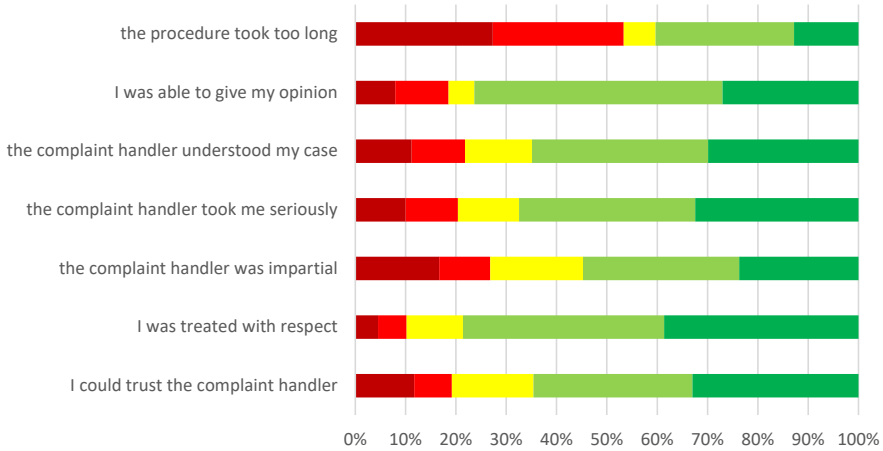
When we consider the various aspects of procedural justice, a number of things stand out (Table 1). First of all, almost 70 % of the respondents (completely) agree with most statements. A negative exception is the statement about the duration of the procedure. No more than 40 % of the respondents (completely) agree with the statement that there was a timely procedure. Furthermore, Figure 1 shows that respondents are generally more positive about those statements that are concerned with the actual course of events of the procedure (such as the statement that there was accurate information and that they were kept informed of the progress of the case) and less positive about those statements that are concerned with the attitude of those who dealt with their complaint (such as the statement that they were impartial and trustworthy). An exception is the statement that people feel that they have been treated with respect: almost 80 % of the respondents (completely) agree with this.<sup>6</sup>

Some respondents highlighted the positive aspects of procedural justice:

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<sup>5</sup> This corresponds to the distribution of Kifid cases in general. In 2019, 57.8 % of cases were closed with mediation/settlement. (Kifid 2019).

<sup>6</sup> The aggregated score for all seven statements on 'procedural justice' (on a scale between 1–5) is 3.7.



**Figure 1:** Experienced procedural justice

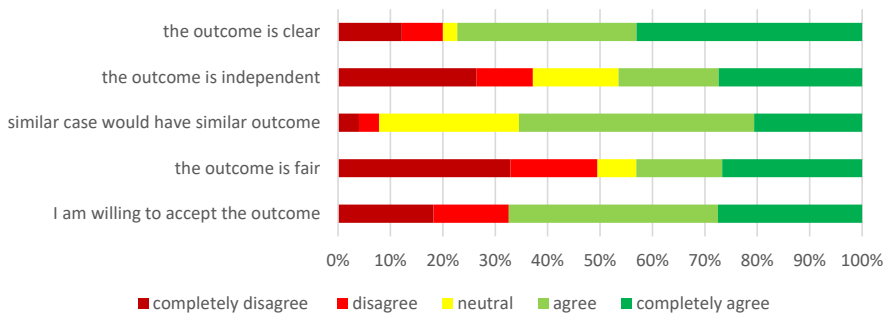
*It is very nice to stay in contact by telephone, because then you can tell your story.  
 A listening ear works stress reducing.  
 [I got] the feeling that Kifid was on my side.*

**Others highlighted more negative aspects of procedural justice:**

*I don't feel taken seriously.  
 I have not really been heard and I would have liked to have had more personal contact but that was not possible. It all had to be done by letter. I am a consumer and it is very difficult to put everything on paper.  
 There has been no human contact. We were really broken after we finally bought our house. We even had to stay with my in-laws at Christmas, because the mortgage advisor could not get the documents to the notary on time. We expected a much more humane approach.*

In addition to questions about the course of events during the Kifid procedure, we also asked the respondents a number of questions about the outcome of the procedure. About half of the respondents were positive about the outcome of their case (40 % found the outcome in their case positive and 13 % partly positive, partly not positive), 47 % of the respondents did not feel they achieved a positive outcome. We also asked respondents to respond to a number of statements about the perceived fairness of the outcome of their case. The statements were as follows: *The outcome is clear, The outcome is independent, A similar case of someone else would have had a similar outcome, The outcome is fair, and I am willing to accept the outcome.* All responses were measured using a five-point Likert-scale (1= *Disagree completely*, 5 = *Agree completely*). Cronbach's alpha showed the five items had

strong internal consistency ( $\alpha = .86$ ). The reactions to the statements are shown below (Table 2).



**Figure 2:** Views on the outcome

The large majority of respondents (78 %) thought the outcome was clear. Also, most respondents (66 %) thought that Kifid would have come to the same opinion in a similar case. Figure 2 also shows that half of the respondents (49 %) did not think the outcome of the Kifid procedure was fair. There is also considerable skepticism about the independence of the outcome. This may be related to the fact that Kifid is funded by the financial services providers. More than one third (38 %) of the respondents rate the outcome of the procedure as non-independent (46 % think the outcome is independent; 16 % had no opinion about this). Some critical respondents explain their view as follows:

*The independence of Kifid is, let me put it mildly, questionable.*

*Kifid presents itself as an independent dispute resolution committee and that has not been realized [...]. I have the strong impression that they protected the financial service provider.*

*Kifid is by no means independent. From the start, the consumer is 1-0 (or more) behind.*

Only about half of our respondents were (quite) positive about the fairness (and favorability) of the decision reached in their procedure. It is therefore (some-what) surprising that two-thirds of respondents (67 %) stated they were willing to accept the outcome of the Kifid procedure. However, acceptance does not mean that people always wholeheartedly agree with the decision in their case. As the following statements from some of the respondents show, acceptance can sometimes also be a form of resignation (to save further time and effort):

*A year and a half later, I'm done with it.*

*It still costs us so much energy that we just accept it. We want to move on with our lives and we accept the damage.*

*I will have to [accept the Kifid decision], because I cannot appeal and a lawsuit is too expensive for me.*

One third of the respondents (33%) were not prepared to accept the outcome of the Kifid procedure. This means that they have initiated a follow-up procedure or they are considering seeking publicity for their case:

*I am considering going to court.*

*I will continue to litigate with real lawyers and I want a ruling from a real judge.*

*I'm going to hand over my file to the media to share with the public.*

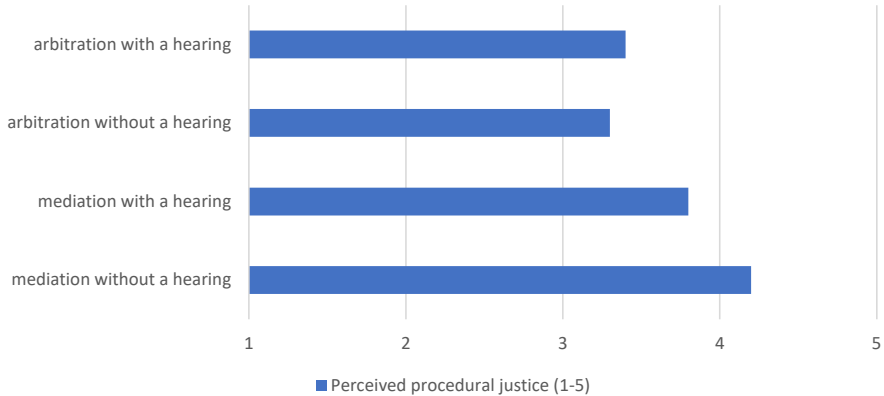
Finally, we asked the respondents to express their satisfaction with Kifid in a score from 1–10. On average, claimants gave the performance of Kifid a score of 6.1. However, this average says relatively little about the performance of Kifid on the whole, as the grades given vary quite a bit. In fact, almost half (44%) of our respondents gave Kifid a score 8 or above, while only 25% of respondents gave the performance a 3 or lower.

## How Do Consumers Experience Mediation and Arbitration?

One of the central ideas of Kifid's 'new philosophy of complaint handling' was that an amicable solution is preferable to a formal decision. It is therefore interesting to see if there are any differences between the experiences of those consumers for whom their case has been settled through mediation and those consumers whose case has been decided by arbitration. As indicated earlier, the average Kifid-score was 6.1 (on a scale 1–10). However, our survey findings also show that respondents whose case has ended with mediation give Kifid a (fairly) high score (6.2 – 7.6), but respondents whose case has been decided with arbitration give Kifid a (fairly) low score (4.6 – 4.7). It is also striking that in mediation the group with a hearing scores almost 1.5 points *lower* than the group without a hearing. In arbitration the difference between cases with and without a hearing is nil.

The first hypothesis we proposed to analyze these differences was that complainants' perceived procedural justice is higher with complainants whose complaint was resolved through mediation than with complainants whose dispute

was resolved through arbitration. In this analysis, we use the aggregate procedural justice score (with a possible score of 1 to 5), which was introduced earlier (section 4).



**Figure 3:** Perceived procedural justice (arbitration and mediation)

Figure 3 shows that complainants whose complaint was handled through mediation perceived the Kifid procedure to be more just (3.8 – 4.2) than persons whose case was decided with arbitration (3.3 – 3.4). This confirms Hypothesis 1. In both categories, there is no (significant) difference between a procedure with or without a hearing.

## How Important is Procedural Justice?

The two other hypotheses of this paper suggest that procedural justice plays a significant role both in consumers' satisfaction with Kifid (Hypothesis 2) and their willingness to accept the Kifid decision (Hypothesis 3). In this section, we will test both hypotheses.

### How Important is Procedural Justice for Consumers' Satisfaction with Kifid?

According our second hypothesis, consumers' satisfaction with Kifid is shaped both by the course of events during the Kifid procedure and by the outcome of the

complaints procedure. To test this hypothesis, we performed a regression analysis with the score given by the respondent (between 1 and 10) as a dependent variable (Table 1). By ‘the course of events during the Kifid procedure’ we mean (a) the perceived procedural justice (the aggregated score) and (b) whether the case has ended with mediation or arbitration. By ‘the outcome of the complaints procedure’ we mean (a) the perceived distributive justice (the aggregate score) and (b) whether there was a positive outcome according to the respondent. This last potential factor is particularly important to take into account in the analysis because the data showed that the group of respondents with mediation were much more likely to believe that a positive outcome had been achieved for them in their case (79 % of the respondents who stated they had achieved a positive outcome had been through the mediation procedure). By including the factor ‘favorableness of the outcome’ in the analysis, it can be established if mediation as such is positively related to consumers’ satisfaction with Kifid or whether this effect works indirectly through the perceived favorableness of the outcome.

**Table 1:** Results from regression analysis predicting consumers’ satisfaction with Kifid

Model B		Unstandardized		Standardized	t	Sig.
		Coefficients				
		S. E.	Beta			
1	(Constant)	5,249	,133		39,585	,001
	Arbitration or mediation (Dummy (0 = arbitration, 1= Mediation))	1,498	,189	,264	7,910	,001
	Procedural justice (centered)	2,064	,114	,603	18,044	,001
2	(Constant)	5,309	,125		42,375	,001
	Arbitration or mediation (Dummy (0 = arbitration, 1= mediation))	1,043	,187	,184	5,581	,001
	Procedural justice (centered)	1,620	,122	,473	13,274	,001
	Outcome favorability (centered)	,353	,093	,143	3,786	,001
	Distributive justice (centered)	,462	,104	,181	4,430	,001

a. Dependent Variable: Score reflecting consumers’ satisfaction with Kifid (between 1 and 10)

$R^2 = .572$  (meaning roughly 57 % of the variance in consumers’ satisfaction with Kifid can be accounted for by the variables in the model)

The regression analysis (Table 1) shows that all the factors in our model are positively associated with the Kifid score. There is a link between the Kifid score on the one hand and whether the claimant experienced mediation ( $\beta = .184$ ,  $p < .01$ ) and a strong link with procedural justice ( $\beta = .473$ ,  $p < .01$ ). The association between distributive justice and the Kifid score ( $\beta = .143$ ,  $p < .01$ ) was much less prevalent, as

was the association between the Kifid score and the extent to which the outcome was perceived as positive ( $\beta = .181, p < .01$ ).

Our data supports our hypothesis that complainants' satisfaction with Kifid is shaped by both the process (mediation/arbitration and perceived procedural justice) and the outcome (outcome favorability and distributive justice). This means that Hypothesis 2 is confirmed. The four factors together (the model) can explain about 57% of the variation in the Kifid score.

## How Important is Procedural Justice for Consumers' Willingness to Accept the Kifid Decision?

The third hypothesis stated that if consumers experience more procedural justice during the Kifid procedure, they are also more willing to accept the outcome. Respondents were asked to indicate whether they were willing to accept the Kifid decision in their case. They were given five answer options: 'no, not at all'; 'no'; 'don't know/neutral'; 'yes'; and 'yes, completely'. For the sake of the analysis, the respondents were divided into two groups (the group that indicated that they were not willing to accept the decision and the group that indicated that they were willing to accept the decision). We then looked at which factors influence the chance that the respondent in the group is 'willing to accept the Kifid decision'.

**Table 2:** Results from regression analysis showing which factors influence the chance that a consumer is willing to accept the Kifid decision

	B	S.E.	Wald	df	Sig.	Exp(B)
Step 1 <sup>a</sup> Arbitration or mediation (Dummy (0 = arbitration, 1 = Mediation)	1,747	,295	34,986	1	<,001	5,737
Procedural justice (centered)	1,147	,168	46,821	1	<,001	3,149
Distributive justice (centered)	,381	,170	5,029	1	,025	1,463
Outcome favorability (centered)	,381	,180	4,458	1	,035	1,463
Constant	,474	,190	6,215	1	,013	1,606

The multinomial logistic regression analysis (Table 2) shows that each of the factors taken into account (mediation or not ( $B = 1.747, p < .01$ ), procedural justice ( $B = 1.147, p < .01$ , distributive justice ( $B = .381, p < .01$ ) and whether or not a positive outcome had been achieved ( $B = .381, p < .01$ )) is relevant to the probability that the respondent is willing to accept the Kifid decision. This means that each of the factors in and of itself contributes to the likelihood that a claimant stated they were willing to accept the outcome. With mediation the outcome is accepted



more often than with arbitration (regardless of the other factors, such as perceived outcome fairness and/or favorability). When there is a higher level of perceived procedural justice, the respondent is more willing to accept the outcome. The same applies to distributive justice and the extent to which there was a positive outcome: if these are valued higher, the consumer is more likely to accept the outcome. In short, the degree of willingness to accept outcomes depends both on the way in which the case is handled and on the consumer's opinion of the outcome. This means that Hypothesis 3 is also confirmed.

## Procedural Justice and Consumer Disputes

Similar to previous ADR research in consumer disputes (Creutzfeldt & Bradford 2016), we found that both procedural justice *and* outcome evaluations are key factors shaping consumers' satisfaction and decision acceptance. However, in our view these findings do not imply that the procedural justice model may be 'less relevant' (Williams et al. 2020: 278) for consumer or financial disputes. By contrast, we would argue that it is quite remarkable that even in Kifid-disputes – 'where services are more transactional and the main loss is financial' (Williams et al. 2020: 278) – people are not just driven by money, but their opinions and actions are also motivated by procedural justice. This is also reflected in other findings from our survey. We asked consumers why they decided to take their case to Kifid. While a large group wanted financial compensation (81%), many consumers also wanted to be treated with respect (80%) and cited the need for a listening ear (74%) as the reason for their complaint. Moreover, it is important to note that the 'procedural justice literature does not suggest that people do not care about outcome, just that they are more likely to be willing to accept a decision if they perceive the process used to reach the decision as fair' (Williams et al. 2020: 277). Our findings still support this central claim. Therefore, it is too early to dismiss the relevance for procedural justice in financial disputes. Moreover, and unlike previous studies, our study not only looks at ADR in general terms, but it also distinguishes between consumers' experiences with mediation and with arbitration. Our findings show that another factor that is relevant to the probability that the respondent is willing to accept the Kifid decision is the ADR mechanism that was used. Consumers whose case was handled by mediation are more likely to accept the outcome than those whose case was decided by arbitration (Table 2). As we will argue below, people are more satisfied with mediation than with arbitration because in mediation they experience more procedural justice.

## Discussion

Our research shows how consumers experience the Kifid complaints procedure. In this section, we try to find an explanation for three of the most striking outcomes of this study: the contrast in consumers' satisfaction with mediation and arbitration, the difference in perceived procedural justice in mediation and arbitration, and the limited added value of the hearings during both procedures.

### **Why Are Consumers More Positive About Mediation Than About Arbitration?**

Consumers give Kifid an average score of 6.1 out of 10. However, when we look more closely, there are also some important differences in the overall satisfaction with the various Kifid procedures. Consumers whose case has ended with mediation give Kifid a much higher score than consumers whose case has ended with arbitration (Section 6). One possible explanation for these findings, is that in mediation both parties agree with the outcome, while in arbitration there is always one winner and one loser. An earlier study therefore concluded that the way in which consumers evaluate Kifid is 'strongly related to the outcome of the procedure' (Hers et al. 2020: 38; our translation). However, we found that this is not the whole story. Our data show that consumers still give Kifid a higher score in mediation than in arbitration, even if they are equally positive (or negative) about the outcome of their case. One possible explanation for this is the difference in perceived procedural justice. Our research shows that consumers whose case has ended with mediation have experienced more procedural justice than persons whose case has ended with arbitration. As discussed in the previous section, we also found that the perceived procedural justice and distributive justice are more important for the Kifid score than the extent to which the outcome was perceived as positive (Table 1).

### **Why Do Consumers Experience Less Procedural Justice with Arbitration than with Mediation?**

Our study has found that consumers' experiences with arbitration are very different from their experiences with mediation. According to an earlier study, many consumers feel that there is an 'uneven playing field' in financial disputes and that Kifid does too little to eliminate the difference in knowledge and experience between consumer and service provider (Hers et al. 2020: 47; our translation).

This is particularly true in arbitration. In this procedure, there is a strong contrast between ‘(a large) financial service provider that is usually represented by its own legal team and regularly by a lawyer, compared to the consumer without any legal assistance and legal knowledge’ (Hers et al. 2020: 49; our translation). Moreover, an earlier study found that the case officers play a key role in the way that consumers experience the Kifid procedure. ‘The case officer, who can still play a role in the preliminary phase to help the consumer to formulate his complaint, has a neutral role at the [arbitration] hearing. Consumers don’t understand this.’ (Hers et al. 2020: 49; our translation)

This suggests that the degree in which consumers experience procedural justice is also influenced by the degree in which Kifid safeguards the consumer interests. In the eyes of consumers, the mediation procedure is more characterized by a level playing field (partly due to the active role of the case officer) than the arbitration procedure. Consumers think that the financial service provider often has a much better position during the Kifid complaints procedure. This may also explain why in our research a relatively large group of consumers question the impartiality of the Kifid decisions. Consequently, our study seems to confirm the findings from earlier research in which the (representatives of) consumers indicated that they believe that ‘Kifid could do more to level the playing field in order to safeguard consumer interests and promote procedural justice.’ (Hers et al. 2020: 49; our translation)

## **Why Don’t Hearings Make a Difference?**

The Kifid complaints procedure can be concluded with or without a hearing, both in mediation and in arbitration. In theory, it seems plausible that ‘having one’s day in court’ will contribute to more procedural justice. However, our study does not support this idea. Both in mediation and in arbitration, the level of procedural justice is unrelated to whether there has been a hearing or not (Figure 3). Also, those individuals who experienced mediation without a hearing are considerably more positive about Kifid than those who experienced mediation with a hearing (Section 6). There may be two explanations for this. First, as discussed earlier, in every case the complainant is contacted by the case officer. They explain the procedure, check if any additional documents are needed, and assist the consumer with the exact formulation of his complaint. In this way, all consumers will already have had the opportunity to explain their position prior to a possible hearing. Secondly, here too it could be important that consumers feel that there is an uneven playing field at the arbitration hearings and that Kifid is doing too little to safeguard the consumer interests. Consumers may therefore feel that during a

hearing there is not more, but rather less space to tell their side of the story. As a result of these two factors, the actual hearing has little added value for most consumers.

## Conclusion

This paper set out to explore consumers' experiences with the Financial Services Complaints Institute (Kifid) in the Netherlands. Based on our study, we can draw several empirical, theoretical and methodological conclusions. Empirically, our findings show that – several years after its introduction – the effects of Kifid's 'new philosophy of complaint-handling' on consumer experiences are limited. At first glance, it looks as if Kifid's new approach was fairly successful. Consumers value Kifid with a 6.1 (on a scale 1 – 10). However, at closer inspection it turns out that these positive opinions about Kifid 'in general' hide some considerable differences in the evaluation of the different elements of the Kifid-procedure. Consumers whose case has ended with mediation give Kifid a (fairly) high score (6.2 – 7.6), but respondents whose case has been decided with arbitration give Kifid a (fairly) low score (4.6 – 4.7). Our study shows that this difference is strongly related to the perceived procedural justice in both procedures. Especially at the hearings of the Arbitration Commission, consumers feel that there is an uneven playing field and that the voice of the financial service provider has more influence than the voice of the consumer. In other words, the effect of the 'new philosophy of complaint handling' is limited to the preliminary phase of the procedure in which a substantial number of cases are successfully mediated, but in the eyes of consumers it has not yet led to an improvement of the 'old' Kifid arbitration procedure. In fact, since the introduction of the 'new philosophy', the consumers' score for the Arbitration Commission has dropped from a 6.8 in 2016 to a 5.5 in 2020 (Hers et al. 2020: 31).

In theoretical terms, our study shows that the procedural justice model provides a helpful framework to analyze consumers' experiences with financial disputes. Firstly, there is a fairly strong link between the overall level of satisfaction with the Kifid complaints procedure and perceived procedural justice. Secondly, the willingness to accept the outcome is highly correlated with perceived procedural justice. Similar to previous studies, we also found that, in the context of financial disputes, outcome favorability plays a more prominent role than is often the case in other studies, for example of policing (Creutzfeldt & Bradford 2016: 1013). However, this does not imply that procedural justice is completely irrelevant. For most consumers it is also important that Kifid takes them seriously,

shows respect, listens to them, provides information about the complaints procedure and facilitates a level playing field. Put differently, even in financial disputes it's not all about the money.

In terms of methodology, the relevance of our study is not limited to the Netherlands because our findings also offer several suggestions for future research aimed at developing a 'general sociology of complaints bodies'. While previous research was often aimed at studying ADR in general, our study suggests that it is important to differentiate between mediation and arbitration. Moreover, our study emphasizes that a 'sociology of complaints bodies' should include the way in which complainants experience these procedures. In addition to complainants' perceptions of procedural justice (and legitimacy), future research may also further explore complainants' perceptions of law and the justice system by studying their 'legal consciousness' (see, e.g., Hertogh 2018; Chua & Engel 2019). Finally, our study stresses the importance of a contextual and comparative approach to complaint handling. Earlier research has focused on consumer disputes and our study has looked even more specifically at financial disputes. These types of disputes have their own specific set of characteristics (including a strong focus on financial gains). Therefore, in developing a 'general sociology of complaints bodies', future research should also consider how these findings about consumer disputes compare to the findings in relation to other types of disputes and other complainants.

## References

- Boekema, Martje (2015) *De stap naar hoger beroep: Een onderzoek naar appelgedrag van burgers in bestuursrechtelijke zaken*. Ph.D. diss., Department of Constitutional Law, Administrative Law and Public Administration, University of Groningen.
- Bradford, Ben, Jackson, Jonathan & Hough, Mike (2013) *Police Legitimacy in Action: Lessons for Theory and Practice* (SSRN Scholarly Paper No. ID 2236691). Rochester, NY: Social Science Research Network.
- Brett, Jeanne M. and Stephen B. Goldberg (1983) "Grievance Mediation in the Coal Industry: A Field Experiment." *Industrial and Labor Relations Review* 37 (1): 49–69.
- Casper, Jonathan D., Tyler, Tom & Fisher, Bonnie (1988). "Procedural Justice in Felony Cases." *Law & Society Review* 22 (3): 483–507.
- Cherednychenko, Olha (2015) Public and Private Enforcement of European Private Law in the Financial Services Sector. *European Review of Private Law* 23: 621–647.
- Chua, Lynette J. & Engel, David M. (2019) Legal Consciousness Reconsidered. *Annual Review of Law and Social Science* 15: 335–353.
- Creutzfeldt, Naomi & Bradford, Ben (2016) Dispute Resolution Outside of Courts: Procedural Justice and Decision Acceptance Among Users of Ombuds Services in the UK. *Law & Society Review* 50: 985–1016.

- Creutzfeldt, Naomi (2016) *Trusting the Middle-Man: Impact and Legitimacy of Ombudsmen in Europe*. (Project Report). London: Westminster Law School. [https://www.law.ox.ac.uk/sites/files/oxlaw/ombuds\\_project\\_report\\_nc\\_2.pdf](https://www.law.ox.ac.uk/sites/files/oxlaw/ombuds_project_report_nc_2.pdf)
- Creutzfeldt, Naomi (2018) *Ombudsmen and ADR: A Comparative Study of Informal Justice in Europe*. London: Palgrave Macmillan.
- Ernste, P.E. (2015) Niet-bindend advies bij de Geschillencommissie van Kifid. *Tijdschrift voor Consumentenrecht en handelspraktijken* 1: 9–15.
- Hers, Johannes, Rougoor, Ward & Verheuve, Niels (2020) *Tot zijn recht komen: Evaluatie Kifid*, (SEO-rapport nr. 2020–66). Amsterdam: SEO Economisch Onderzoek.
- Grootelaar, Hilke A.M. & van den Bos, Kees (2018) “How Litigants in Dutch Courtrooms Come to Trust Judges: The Role of Perceived Procedural Justice, Outcome Favorability and Other Sociolegal Moderators.” *Law & Society Review* 52 (1): 234–68.
- Hertogh, Marc (2018) *Nobody's Law: Legal Consciousness and Legal Alienation in Everyday Life*. London: Palgrave Macmillan.
- Hertogh, Marc, Marseille, Bert & Wever, Marc (2021) *Financiële geschillen en procedurele rechtvaardigheid: Ervaringen van consumenten met het Klachteninstituut financiële dienstverlening (Kifid)* (Working Paper, Vol. 2021, No. 1). Groningen: Groningen Centre for Empirical Legal Research/Groningen Centre for European Financial Services Law.
- Hodges, Christopher J. S., Benöhr, Iris & Creutzfeldt-Banda, Naomi (2012) *Consumer ADR in Europe*. Oxford, Portland, OR: Hart Publishing.
- Hollander-Blumoff, Rebecca & Tyler, Tom R. (2008) “Procedural Justice in Negotiation: Procedural Fairness, Outcome Acceptance and Integrative Potential.” *Law & Social Inquiry* 33 (2): 473–500.
- Jackson, Jonathan, Bradford, Ben, Hough, Mike, Myhill, Andy, Quinton, Paul & Tyler, Tom R. (2012) Why Do People Comply With the Law? Legitimacy and the Influence of Legal Institutions. *British Journal of Criminology* 52: 1051–1071.
- Kifid (2015), *Jaarverslag 2015*. [https://www.kifid.nl/wpcontent/uploads/2018/07/Jaarverslag\\_2015.pdf](https://www.kifid.nl/wpcontent/uploads/2018/07/Jaarverslag_2015.pdf)
- Kifid (2019), *Jaarverslag 2019*. <https://jaarverslag.kifid.nl/>
- Lind, Allan E., Walker, Laurens, Kurtz, Susan, Musante, Linda & Thibaut, John W. (1980) Procedure and Outcome Effects on Reactions to Adjudicated Resolution of Conflicts of Interests. *Journal of Personality and Social Psychology* 39: 643–653.
- Lind, Allen E., MacCoun, Robert J., Ebener, Patricia A., Felstiner, William L., Hensler, Debeorah R., Rensik, J. & Tyler, Tom R. (1990) In the Eye of the Beholder: Tort Litigants' Evaluations of Civil Justice System Experiences. *Law & Society Review* 2: 953–996.
- Ruinaard, Eveline (2017) Kifid's visie op klachtbehandeling. *Tijdschrift voor klachtrecht* 13: 10–12.
- Shapiro, Debra L. & Brett, Jeanne M. (1993) “Comparing Three Processes Underlying Judgments of Procedural Justice: A Field Study of Mediation and Arbitration.” *Journal of Personality and Social Psychology* 65 (6): 1167–77.
- Thibaut, John W. & Walker, Laurens (1975) *Procedural Justice: A Psychological Analysis*. Hillsdale, NJ: L. Erlbaum Associates.
- Tyler, Tom (1990) *Why People Obey the Law*. Princeton: Princeton University Press.
- Tyler, Tom R. & Huo, Yuen J. (2002) *Trust in the Law: Encouraging Public Cooperation with the Police and Courts*. New York: Russell Sage Foundation.
- Van den Bos, Kees van der Velden, Lynn & Lind E. Allan (2014) “On the Role of Perceived Procedural Justice in Citizens' Reactions to Government Decisions and the Handling of Conflicts.” *Utrecht Law Review* 10 (4): 1–26.

- Walters, Glenn D. & Bolger, P. Colin (2019) Procedural Justice Perceptions, Legitimacy Beliefs, and Compliance with the Law: A Meta-Analysis. *Journal of Experimental Criminology* 15: 341–372.
- Welsh, Nancy A. (2002) Disputants' Decision Control in Court-Connected Mediation: A Hollow Promise Without Procedural Justice. *Journal of Dispute Resolution* 1: 179–192.
- Williams, Jane, Gill, Chris, Creutzfeldt, Naomi & Vivian, Nial (2020) Participation as a Framework for Analysing Consumers' Experiences of Alternative Dispute Resolution (ADR). *Journal of Law and Society* 47: 271–297.