

NNDKP successfully assisted Enel in a complex fiscal dispute regarding the deductibility of the amount of tax depreciation for corporate assets acquired from clients through transfer



Nestor Nestor Diculescu Kingston Petersen (NNDKP) successfully represented ENEL (E-Distributie Banat) in a complex tax dispute relating to the possibility of taxpayers deducting the value of tax depreciation for tangible assets (electricity grid connectors) acquired from the company's clients through transfer, for the calculation of corporate income tax. Initially, tax authorities rejected this possibility based on the way in which the company acquired the connectors (free of charge) and considering the existence of accounting depreciation rules different from the tax depreciation rules that were used.

“We are glad that this dispute, which raised complex tax law issues, was resolved in favor of our client. The ruling reflects the efforts, integrated approach, and cooperation of our multidisciplinary team combining the experience, technical skills, and perspective of both our tax advisors and lawyers specialized in tax litigation”, declared [Daniela Gramaticescu](#), Partner, Dispute Resolution practice.

This dispute shed light on significant tax law matters, including on the taxpayer's right to opt for an accounting depreciation period different from the periods provided by the law for tax depreciation. Furthermore, the court also considered the effect that the different accounting and fiscal depreciation rules would have over time on the tax base for corporate tax, from a fiscal perspective.

The rationale for this, confirmed also by the court, relies on the different purpose of the two types of depreciation. The accounting depreciation aims to accurately reflect a company's financial value and allow the exercise of professional judgment in determining the period over which the asset will bring economic benefits to the taxpayer. The purpose of tax depreciation is to ensure the recovery/fiscal admission of the acquisition cost, based on the criteria provided by the fiscal law and, implicitly, the accurate determination of the tax base for corporate income tax, including when the fixed asset is donated to the company.

The High Court of Cassation and Justice rendered a final decision confirming the ruling obtained by the NNDKP team before the Timisoara Court of Appeals.

The **NNDKP** team representing Enel in this dispute included **Daniela Gramaticescu**, *Partner*, and **Alexandru Lacureanu**, *Senior Associate*, in the Dispute Resolution practice, and **Silviu Badescu**, *Partner*, Tax Advisory Services.

NNDKP's Dispute Resolution practice led by **Ana Diculescu-Şova** is independently acknowledged as a market leader in litigation, arbitration, and other dispute resolution procedures. As a confirmation of its high market status, the firm has always achieved high rankings in reputable international legal directories such as Chambers &

Partners, since 2007, and Legal 500, since 2002.

NNDKP's Center of Excellence in Fiscal Disputes (CELF) provides integrated services to the company's clients from the initial stage of a fiscal dispute until the litigation stage before Romanian courts, offering a seamless approach throughout the fiscal dispute. Clients benefit from the very first moment from complete professional services covering both fiscal and legal aspects, in the unwanted scenario of a fiscal dispute, thanks to the involvement of a mixed team of professionals in each project.

Nestor Nestor Diculescu Kingston Petersen is a promoter of business law in Romania with more than 30 years of experience, independently acknowledged as a pioneer of the Romanian legal market. NNDKP offers full-service and integrated legal and tax advice to companies from diverse industry sectors. For the past three decades, NNDKP lawyers have provided expertise in landmark deals and projects in Romania, contributing to the evolution of the Romanian business environment, including in innovative and niche economic sectors that involved both international corporations and local entrepreneurs.

NNDKP represents Romania in some of the most prestigious international professional alliances - Lex Mundi, World Services Group, International Attorneys Club - and is a founding member of SEE Legal. The firm is constantly top ranked in all practice areas by the renowned international guides Chambers & Partners, Legal500 and IFLR 1000.

NNDKP is a 6-time winner of the much-coveted "Romania Law Firm of the Year" award at the Chambers Europe Awards gala, in 2022, 2021, 2017, 2013, 2012 and 2009.