

NNDKP obtains a decision to refer questions to the Court of Justice of the European Union to clarify the lawfulness of an electrical energy production surcharge



The Bucharest Court of Appeals has recently decided to refer several questions to the Court of Justice of the European Union for a preliminary ruling on the interpretation of the EU law to clarify the lawfulness of the electrical energy production surcharge imposed by Law 259/2021. The request came from a company operating in the renewable energy sector, represented by Nestor Nestor Diclescu Kingston Petersen (NNDKP). Additionally, the Bucharest Court of Appeals referred to the Constitutional Court an objection of unlawfulness relating to the same legal provisions on the surcharge imposed for electrical energy production.

Important clarifications are awaited from the two courts in terms of the forms of discrimination created by Law 259/2021 and the lack of predictability and fiscal equity generated by this tax, which affects competition on the energy market, discouraging investment in green energy and even endangering Romania's commitments to achieve climate neutrality by 2050.

“This is a major decision, which we are eager and thrilled to honor in the following phases conducted before the Constitutional Court and the Court of Justice of the European Union. This decision of the general jurisdiction court reflects the efforts, integrated approach and collaboration of our multidisciplinary team, which combines the experience, technical skills and perspective of lawyers specializing in dispute resolution, energy and competition law and of the NNDKP tax consultants”, declared [Daniela Gramaticescu](#), *Partner*.

The NNDKP team who represented the client in this dispute included [Ana Diclescu Șova](#) (Partner and Head of the Dispute Resolution practice), Daniela Gramaticescu (Partner, Dispute Resolution), [Alexandru Lacureanu](#) (Senior Associate, Dispute Resolution), [Gabriela Cacerea](#) (Partner, Energy and Natural Resources), [Anca Diaconu](#) (Partner, Competition, State Aid and EU Law) and [Silviu Badescu](#) (Partner, NNDKP Tax Advisory Services).

NNDKP's *Dispute Resolution* practice led by Ana Diclescu-Șova is independently acknowledged as a market leader in litigation, arbitration, and other dispute resolution procedures. As a confirmation of its leading 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 the Romanian courts, offering a seamless approach throughout the fiscal dispute. Clients benefit from the very first moment from complete professional services covering both technical aspects and specific legal issues, in the unwanted scenario of a fiscal dispute,

thanks to the involvement of a mixed team of professionals in each project.

About NNDKP

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.