

Clifford Chance Badea and STOICA & Associates win a major competition litigation



As representative of an important telecom player, the Clifford Chance Badea and STOICA & Associates law firms were issued a final ruling to cancel one of the largest fines imposed in recent years by the Competition Council, amounting to EUR 13.5 million, in an investigation into an alleged abuse of a dominant position.

The case involved an extremely interesting legal debate with several novelties about the emerging value-added services industry and its merging with the telecommunications industry. The Competition Council's decision to fine Orange Romania was announced in January 2019, following a three-year investigation – and concerned an alleged limitation of access for a value-added services aggregator to short numbers in the telecom operator's own network.

After four years of litigation, the High Court of Cassation and Justice confirmed the decision handed down by the Bucharest Court of Appeal, namely the full annulment of the sanction imposed by the Romanian competition authority, after the High Court of Cassation and Justice had also ruled to suspend the enforcement of the competition authority's decision, in 2020.

"The ruling in this case is an act of justice resulting from the qualitative legal work provided by the lawyers, the competence and the experience of Orange Romania's legal team coordinators, and the courts' understanding of the complexity of the factual and legal issues raised in this trial. Special mention must be made of the impeccable drafting of the judgment handed down in the first instance by the Bucharest Court of Appeal. The solution by which this case was solved has a value of principle. It has been judiciously ruled, among other things, that contractual sanctions legitimately applied to an unfair contractual partner cannot represent a constitutive element of the offense of abuse of a dominant position. This solution is also based on rulings made in a previous litigation managed by the same team of STOICA & Associates," **Valeriu Stoica**, Founding Partner, STOICA & Associates, says.

"This has been a lengthy project in a new and sophisticated value-added services industry that required long hours of study and strategic analysis on multiple levels. There were a continuous communication between the lawyers and the client's teams and a very good synchronization. All this helped us be rewarded and privileged with a most exceptional decision for the Romanian competition law jurisprudence of recent years, ruled in favour of our client," adds **Simona Neagu**, *Counsel and Head of the Litigation practice with Clifford Chance Badea*.

This jurisprudence, through its value of principle, will contribute to the orientation of the Competition Council's activity and to the strengthening of its role as guardian of the rules of the free market economy, based on private

property.

The case brought together the legal team of Orange România including **Milena Horvat**, Legal Affairs and Governance Director and **Andrei Brujan**, Corporate and Technology Legal Division Manager, and one of the best lawyers in Romania.

On behalf of the STOICA & Associates law firm, the team was coordinated by Emeritus Professor, PhD, *Valeriu Stoica* and included Senior Partner *Dan-Răeș Raducanu* and Senior Associate *Constantin – Cosmin Pintilie*.

On behalf of the Clifford Chance Badea law firm, the team was coordinated by *Counsel Simona Neagu*, Head of the Bucharest Litigation practice, and included *Of Counsel Eleonora Udroiu*, coordinator of the Competition practice, and *Senior Associate Vicu Buzac*.