

Valuable jurisprudence obtained by RTPR for Premier Energy Furnizare in the field of hardship theory. Damages of approximately EUR 4 million and legal penalty interest, as a result of the non-performance of an energy supply agreement concluded on the CMBC-BC market



RTPR assisted Premier Energy Furnizare SA (formerly CEZ Vanzare SA) in a complex contractual dispute, whereby an energy trader invoked the hardship theory in order to exonerate itself from the obligation to deliver to Premier Energy the amount of electricity agreed by a contract concluded on the CMBC-CN regulated market (Centralised Market for Electricity Bilateral Contracts - Continuous Negotiation Mechanism). Specific to the nature of these contracts, the quantity of energy was contracted in advance, at a fixed price, even though the due date of the delivery obligation was to take place in the year following the conclusion of the agreement.

The occurrence of hardship was justified in relation to the existence of a significant increase in the price of electricity between the date of the contract and the due date of the delivery obligation, in the context of the crisis on the electricity market that occurred starting with the second half of 2021. This situation was qualified by the opposing party as an exceptional change of circumstances that allegedly led to the breakdown of the contractual balance and to an excessive onerous nature of the assumed delivery obligation.

In the course of the dispute, Premier Energy had its own claims, requesting that the co-contractor be obliged to compensate for the damage it caused as a result of the non-performance of the delivery obligation. The damage was quantified as representing the difference between the price of electricity purchased from third-party contractors to replace the amount of energy that was not delivered and the price agreed through the disputed contract.

The RTPR team of lawyers was made of [Alexandru Stanoiu](#) (Counsel) and [Ana Popa](#) (Senior Associate), under the coordination of [Valentin Berea](#) (Partner). RTPR's litigators managed to obtain, both on the merits and in the appeal phase, the rejection of the hardship thesis as well as the awarding to Premier Energy of damages in the amount of approximately EUR 4 million to which legal penalty interest is added.

Alexandru Stanoiu explained how the saga of this case began: *"In 2021, between Christmas and New Year's Eve, the client requested emergency assistance, given the refusal of the co-contractor to supply the contracted energy, thus jeopardising the supply to tens or hundreds of thousands of household customers in the middle of the cold season. The involvement of our litigation team was prompt, but the result of obtaining compensation through an enforceable decision became available only in December 2024"*.

Ana Popa further declared: *“We are extremely honoured to have successfully assisted Premier Energy in this highly complex litigation in which we encountered a series of legal challenges that required to be addressed in an innovative manner, taking into account both the specifics of the market on which the contract was concluded, but also the special regulations issued in the context of the crisis on the energy market – more specifically, I am referring to the legislation regarding energy price caps and compensation schemes to which electricity suppliers had access. We believe that the court decision recently confirmed by the Bucharest Court of Appeal constitutes an extremely useful precedent on the electricity market, likely to discourage a purely speculative and careless behaviour of energy suppliers, under the expectation of successfully invoking the hardship theory”.*

[RTPR litigation practice](#) has extensive experience in various fields such as tax litigation, competition law, intellectual property, information technology, administrative litigation, national and international arbitration.

[RTPR](#) is one of the most experienced and appreciated law firms in Romania, recognised as such by the Legal 500, Chambers and IFLR 1000 – the most reputed international legal directories – which constantly include RTPR on top tiers in their rankings for various practice areas, such as Banking and Finance, Corporate/M&A, Capital Markets, Dispute Resolution, Competition, Energy and natural resources, Real Estate and Construction, Employment and Intellectual Property.

This year RTPR was named “Romania Law Firm of the Year” at the Chambers Europe Awards, one of the most prestigious accolades in the legal area which confirms the firm’s status as a leader in the field.