



# Cartels

Enforcement, Appeals and Damages Actions

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Contributing Editors:

**Nigel Parr & Euan Burrows**

**glg** global legal group

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# Romania

Mihaela Ion & Silviu Stoica  
Popovici Nițu Stoica & Asociații

## Overview of the law and enforcement regime relating to cartels

The legal regime of cartels in Romania is primarily set out in article 5 of the Competition Act no. 21/1996 (the “**Competition Act**”),<sup>1</sup> which mirrors the text of article 101 of the Treaty on the Functioning of the European Union. The cartel regime is further detailed for implementation purposes in wide secondary legislation (the “**Secondary Legislation**”).

In a nutshell, under the Competition Act, all agreements, concerted practices and decisions of associations of undertakings that have as object or effect prevention, restriction or distortion of competition are prohibited. Among anticompetitive practices, as set out in article 7 of the Competition Act, price-fixing, production or sale limitations or client allocation are the most harmful ones. Such practices are included within the hardcore restrictions category, *de minimis* exclusion not being applicable.

The Romanian Competition Council (the “**RCC**”) is entrusted with enforcement of competition rules. Within the RCC, the Cartel Office mainly sets the general strategy of the RCC’s Plenum (the “**Plenum**”), examines complaints, proposes the initiation of investigations *ex officio*, etc. Besides the direction for cartels, a specific direction, the Direction on Bids and Petitions, focuses on bid rigging practices. In addition, for proper functioning of public procurement under the umbrella of the “Module on Bid Rigging”, the RCC closely cooperates with various public institutions (e.g., National Council for Solving Complaints (“**CNSC**”), National Authority for Regulating and Monitoring Public Procurement, etc.).

Competition law infringements can trigger administrative, criminal or civil liability. The RCC is entitled to impose fines on the undertaking involved in an anticompetitive practice which varies from 0.5% to 10% of the total turnover achieved in Romania in the financial year before sanctioning. In practice, cartels are usually sanctioned with fines ranging from 4% to 8%. For undertakings with no registered turnover, the RCC will consider the previous year and so on, until an annual turnover is determined. The RCC may also request the parties to end the practice and impose comminatory fines if a party fails to observe obligations imposed by the RCC.

In addition, criminal liability of individuals breaching competition regulations may be exceptionally triggered by:

- (a) individuals with management attributions which fraudulently initiate an anticompetitive practice may be subject to criminal liability facing potential imprisonment of up to five years; and
- (b) removing a bidder from a public tender, by coercion or corruption, or engaging or

colluding with the other bidders in order to distort the award price is punished with imprisonment from one to five years (article 246 of the Romanian Criminal Code).

Nonetheless, the criminal sanctions are not applied by the RCC but only by the criminal court. In other words, the RCC may only inform the criminal investigation bodies about a potential criminal offence.

As regards private enforcement of competition rules, the Emergency Ordinance no 39/2017,<sup>2</sup> which transposes the European Directive on private enforcement, has entered into force.<sup>3</sup> The Ordinance basically mirrors the text of the Directive and completes the general private enforcement legal framework set up by article 66 of the Competition Act.

### Overview of investigative powers in Romania

The RCC may launch an investigation *ex officio*, following a third party complaint or based on a leniency application.

The Competition Act grants the RCC extensive investigative powers, amongst which the right to carry-out dawn raids or the possibility to send information requests to undertakings that might have relevant data. Most of the information which falls within the scope of the investigation is collected during dawn raids. The RCC actively uses this investigative tool. In 2017 alone, the RCC has conducted 22 dawn raids at 135 headquarters and places of business.

In order to conduct a dawn raid, a dawn raid order issued by the RCC's President (detailing its object, purpose and date) and a judiciary authorisation are required. The judiciary authorisation may be challenged before the High Court of Cassation and Justice within 72 hours from its communication, but the appeal does not suspend its enforcement.

The wideness of RCC's investigative powers is reflected in (a) the type of premises that may be subject to a dawn raid, and in (b) the type of documents that may be seized.

Competition inspectors may inspect any premises used by the undertaking, not only the ones legally owned but also those used *de facto* including the domicile, the lands or the means of transportation of administrators, directors, managers and other employees. In order to prevent concealment or destruction of evidence, competition inspectors may seal any premises.

Competition inspectors may collect copies and use any financial and commercial documents, including preparatory documents drafted by the undertaking investigated for the exclusive purpose of exercising its right to defence. The only documents which remain under protection are communications between the undertaking under investigation and its external lawyer made exclusively for the purpose of exercising the right of defence if they are drawn up after the launching of the investigation. In case the documents were drafted before the investigation, they benefit from legal privilege only if there is a link between such documents and the current investigation.

In addition, electronic data may also be searched. Competition inspectors may access the electronic equipment and preview the documents at the company's headquarters, or simply copy the data.

On this point, the legal framework with respect to the dawn raid procedure was amended in 2017. The Competition Act now expressly provides the possibility given to the RCC to copy all the data stored on electronic devices.<sup>4</sup> According to the RCC Procedure Regulation,<sup>5</sup> copying all the data is possible in certain circumstances (e.g. when there is a big volume of data). Further on, the copied data will be sealed and the extraction of the information which

falls within the scope of the investigation will be performed in the presence of the company's representatives. Nonetheless, according to the amended article 26 (9) of the RCC Procedure Regulation following seizing the hard copy of the electronic information belonging to the investigated party, the RCC can search data in the absence of the representatives of the companies investigated. According to the RCC, the new procedure is not likely to infringe the right of defence of the investigated parties, as the extraction of the information needed for the investigation is realised in the presence of the company's representatives.

Hindering the conduct of the dawn raid or the refusal to cooperate with the investigative team designated by the RCC for conducting the dawn raids may be sanctioned with fines ranging from 0.1% to 1% of the turnover realised in the year before the sanctioning decision.

Aside from dawn raids, another investigative power of the RCC is to send information requests to investigated undertakings, to other parties or to public authorities. Failure to comply with the RCC's request may lead to fines ranging between 0.1% and 1% of the turnover achieved in the previous financial year for undertakings, and between Lei 1,000 and Lei 20,000 for public entities.

The RCC may also obtain statements from individuals who might have information on the investigation. Thus, the RCC may interview any individual or company's representative(s) with their consent.

### **Overview of cartel enforcement activity during the last 12 months**

2017 was a full year from RCC's enforcement activity perspective. Cartels are definitely in the spotlight as RCC launched 19 new investigations, out of which 11 concern potential cartels in different economic sectors (e.g., leasing, gas distribution). As an example, the RCC launched two separate investigations on the market of operational leasing and financial leasing regarding a potential coordination of commercial policies through price-fixing and/or market sharing and on the consumer credit market regarding a potential exchange of sensitive information. Recently, in October 2018, the RCC launched an investigation on the market of production and commercialisation of concrete with respect to potential market allocation and price-fixing.<sup>6</sup>

With respect to finalised investigations, most of them concerned anticompetitive agreements in key sectors such as energy, public tenders and liberal professions. The RCC applied fines amounting to €27 million.

In one of 2017's landmark decisions, the RCC sanctioned a bid rigging anticompetitive practice in the form of allocation of the market for the production and sale of meters and related equipment for the measurement of electricity within the public procurement procedures organised by the operators of the electricity distribution networks in Romania. The investigation was launched based on a leniency application which led to granting total fine immunity for the applicant company. The sanctioned parties have exchanged sensitive information in order to facilitate coordination of their behaviour. Companies either refrained from bidding or submitted courtesy bids to ensure that the prior designated company won the tender. The implemented practice also included *compensation mechanisms*. As per the decision issued, discussions on the distribution of lots/bids were also held through Electrica. Employees have made non-transparent consultations with the parties involved, drafted the tender documentation in such a way as to benefit the infringing parties and even offered advice to the parties to give an appearance of legality to their behaviour. Thus, for the first time, a contracting authority was sanctioned because it acted as a channel of communication and facilitated the exchange of information between companies in order to share the market.<sup>7</sup>

The RCC also stated that since these anticompetitive practices have led to higher prices for the consumers, it will collaborate with the Regulation Authority in Energy Field for repairing the prejudice. This case also conducted to the application of the biggest fine of 2017, amounting to approximately €15.8 million.

The RCC also focused on sanctioning cartels in which professional associations and their members engaged. For instance, the RCC sanctioned the Chamber of Notaries of Suceava county and its members for establishing and implementing minimum fees for notary services.<sup>8</sup> Only one notary public acknowledged the anticompetitive deed and therefore benefitted from a 15% reduction of the fine.

The professional association of security companies, as well as its members were also sanctioned for a price-fixing cartel implemented through exchange of price-related information. The minimum price was also published on the website of the association.<sup>9</sup> Similarly, the National Chamber of Taxi Drivers of Romania has also been sanctioned for price-fixing.<sup>10</sup>

Nonetheless, in 2017 the RCC also closed a cartel investigation without sanctions.<sup>11</sup> As a rule, the RCC decides to close an investigation or reject a complaint based on lack of proofs, mentioning that the standard of proof is not met. With respect to the standard of proof, within some decisions RCC applies the beyond any reasonable doubt standard, while in others it applies the standard of sufficient proof of an infringement's existence.

### **Key issues in relation to enforcement policy**

The RCC is the only administrative domestic authority empowered to apply article 5 of the Competition Act and article 101 of the TFEU when the anticompetitive practice may affect trade between Member States. The prioritisation principle allows the RCC to decide what cases come first, based on the potential impact on effective competition, consumers' general interest, or strategic importance of the economic sector concerned. However, there are no precise, public criteria based on which the RCC may decide to prioritise the cases. The RCC itself in its Strategy Plan for 2017–2020 mentioned its intention to review the criteria of the prioritisation principle.<sup>12</sup>

Fighting against cartels entails sustained prevention efforts and intense monitoring activity in order to identify risks of anticompetitive collusion, RCC's sanctioning activity being complementary.

#### Cartel prevention

The RCC focuses on prevention of cartel behaviour, actively advocating for implementation of competition compliance programmes. The RCC seeks the growth of awareness and outlook of companies with respect to the necessity of compliance with competition regulations. In this respect, the RCC has issued a set of Guidelines regarding competition law compliance programmes (the Guidelines).<sup>13</sup> Such competition law compliance programmes may be qualified as mitigating circumstances leading to fine reductions. Before the Guidelines, there were no formal criteria that a competition law compliance programme should have fulfilled in order to qualify as a mitigating circumstance. The Guidelines now set out the criteria that a competition compliance programme must fulfil in order to be qualified as a mitigating circumstance. In a nutshell, the main focus is on the effective implementation of the competition compliance programme, the RCC passing from a formal assessment to a more in-depth substance assessment. An effective competition compliance programme must include at least the following: senior management involvement; compliance

policies and procedures, information and training sessions; monitoring; audit and reporting mechanisms; and consistent disciplinary proceedings in case of competition rules infringement.

### Cartel identification

In view of cartel identification, the RCC actively uses various monitoring tools. The RCC is entitled to launch sectorial inquiries in different economic sectors when there is indication of potential restrictions of competition. As a result, RCC's report identifies competition concerns and sometimes recommendations aiming at addressing such concerns. Over time, the RCC has issued reports and/or recommendations regarding food retail, the fuel sector, the pharmaceutical market, the grains market, the wood processing market and others. Recently, in 2018 the RCC issued its report regarding electronic commerce<sup>14</sup> as well as the study with respect to the lock-in effect in public tenders for IT and medical equipment.<sup>15</sup> Also, in 2018 the RCC has announced the launching of a new sectorial inquiry with respect to the effects of the sharing economy (businesses like Uber, Airbnb) on competition.<sup>16</sup>

In addition, the RCC uses new IT tools in view of an easier detection of anticompetitive practices. Besides an IT project whose main purpose is to ensure effective cooperation between public authorities (e.g., the National Direction of Anticorruption), the RCC is currently implementing the Big Data project. Through the integration analysis of big volumes of data, the Big Data Project is expected support RCC's investigative activities. According to the RCC *"the Big Data project will facilitate the identification of cartels in the field of public procurement and will facilitate the finalization of the internal computerization of the Competition Council"*.<sup>17</sup>

Moreover, after launching in 2016 a price comparison platform for basic food products (the Price Monitor), the RCC has announced its extension to fuel prices.<sup>18</sup> The immediate consequence is the increase of the market's transparency, which will help the RCC detect potential price collusions. According to the RCC, such transparency with respect to prices could also enhance the degree of competition on the market.

### **Key issues in relation to investigation and decision-making procedures**

A balance between the public and private interests of parties involved in an alleged cartel is the main objective of national competition legislation.

The right of defence in its various forms, such as the right to access the investigation file, the right to submit written observations to the statement of objections, the right to defence during the hearings before the Plenum, and the right to a separate hearing, act to support private interests. As means of protection for undertakings under investigation, the competition legislation provides strict rules for carrying out investigations and, in some cases, for example, dawn raids, the RCC must have the court's prior formal approval. Parties also enjoy the right to appeal in court certain acts of the RCC such as: inspection orders; interim decisions; qualification of some information as non-confidential; or sanctioning decisions, etc.

As additional protection, the competition legislation usually sets time limits for various phases of the RCC's decision-making process, but they are not mandatory. For example, deliberations must take place the same day with the hearings or on another day if the Plenum decides deliberations will be postponed for certain reasons. After deliberation, the RCC has 120 days to draft and communicate the decision. However, the competition legislation does not stipulate a maximum term for finalising the investigation. In practice, the average

duration of investigations in cartel matters is of approximately two to four years depending on the complexity of the case at hand.

In practice, most statements of objections that reach the Plenum finalise with a sanctioning decision. Limited cases exist where the Plenum has issued a rejection decision or returned the statement of objections for further analysis.

### **Leniency/amnesty regime**

Domestic leniency policy regulated by the Competition Act and detailed in the RCC's Guidelines on the conditions and criteria for the leniency policy applicability ("**Leniency Guidelines**")<sup>19</sup> is intensively promoted by the RCC, including through its Leniency Module. However, leniency is not very often used, probably because of the possibility that the acknowledgment of anti-competitive practices might backfire as criminal liability of the applicant's legal representatives. However, the Romanian Criminal Code provides that persons who reveal their participation in the prohibited practice before the initiation of criminal proceedings will not be liable for the deed. A disclosure after the initiation of criminal proceedings leads to a reduction by half in the punishment limits.

Leniency also applies to cartels and conducts to fine immunity or only reduction. Fine immunity is available before and after the RCC launches an investigation. A basic rule in leniency proceedings says that one cartel may only have one successful immunity applicant, so the following applicants may get fine reductions: 30% to 50% for the first applicant; 20% to 30% for the second applicant; and up to 20% for subsequent applicants.

Since the entry into force of Government Emergency Ordinance no 39/2017 transposing the European Directive on private enforcement, the undertaking benefitting from immunity will be jointly liable for damages from anti-competitive practices.

The RCC will not disclose the immunity applicant's identity to third parties (including other parties to the alleged infringement) that have access to statements made in the context of leniency (including the applicant's identity), only until the statement of objections is issued during file access.

Our jurisdiction reports only three cases of "successful" leniencies: (a) in an investigation into taxi companies for fixing transportation tariffs; (b) in an investigation for bid rigging in oil and gas drilling works; and (c) the investigation concerning bid rigging in the energy field.<sup>20</sup>

### **Administrative settlement of cases**

Our domestic antitrust legal framework does not regulate a settlement procedure as in EU legislation. However, while companies involved in cartels cannot submit commitments, they can apply for the recognition procedure which may lead to important fine reductions (between 10–30%).

According to RCC's activity report, in 2017, 156 undertakings/associations of undertakings were sanctioned, 33 of which recognised the infringement of the Competition Act. Despite RCC's active advocacy of the recognition procedure's benefits, the number decreased from 2016 when out of 119 sanctioned parties, 94 recognised the alleged infringement.

The procedure of recognition has been detailed in the secondary instructions of the RCC entered into force in November 2016. In exchange of acknowledgment of the anti-competitive behaviour, the undertaking can benefit from a substantial reduction of the fine



ranging between 10% and 30%. However, the fine cannot be below 0.2% of the turnover realised in the financial year preceding the sanction. Also, the recognition can take place even before the RCC issues the statement of objections. An undertaking that benefitted from the leniency policy may also use the acknowledgment procedure to gain an additional reduction of the fine.

In order to benefit from a reduction of the fine, the undertakings must submit a formal request that will include (a) the clear recognition of the anti-competitive practice and accept the maximum sum foreseen for the fine, (b) the confirmation they were informed accordingly and they had the possibility to express their opinions with respect to the infringement, and (c) the confirmation that they will request access to the file and/or the organisation of hearings in case the investigation report communicated does not reflect the propositions of the practice's recognition. In case the RCC does not accept the terms of the request and therefore the reduction of the fine is not awarded, the recognition cannot be used as evidence. Also, in case the practice was recognised, and a reduction of fine is awarded, if the undertaking decides to challenge the RCC's decision, it will lose the benefit of recognition.

### **Third party complaints**

Generally, any natural or legal person proving an interest can file a complaint for anti-competitive practices, but this does not automatically mean the RCC opens an investigation. Following preliminary assessment of the complaint, the RCC may decide to: (1) open an investigation; (2) dismiss the complaint; or (3) inform the applicant that the facts described in the complaint fall outside the Competition Act, or are already analysed by the European Commission or other national competition authority. The complainant may challenge the rejection decision in court within 30 days from communication.

Third parties have access to documents from investigation files in limited situations. For example, the author of a complaint which was informed by the RCC that it would reject its complaint may request access to the non-confidential version of the documents taken into consideration by the RCC in its preliminary assessment. In investigations initiated following complaints, the President of the RCC may approve the hearing of the complainant and/or provide a non-confidential version of the investigation report, if the latter demands so.

In addition, any individual may inform on its own intention and anonymously the RCC of the existence of potential anti-competitive behaviours, using the online whistleblowers platform.<sup>21</sup> Their identity cannot be spotted and thus will not be disclosed, and their action will not be considered an infringement of confidentiality obligations provided by the Labour Code or in their employment agreements. The RCC has already launched an investigation on the tourism market following such report.

The RCC can also be notified using another IT tool available on its site – the notification can be made anonymously, but there is no guarantee that the person will not be identified/their identity will not be disclosed.<sup>22</sup>

### **Civil penalties and sanctions**

The RCC's procedure on imposing sanctions is rather transparent. The infringer is personally and individually liable for paying the fine.

As mentioned above, fines applied range from 0.5% to 10% of the total turnover achieved in Romania. In practice, for cartel infringements, the RCC sets the basic amount of 3% or 4%.

The base level of the fine is set based on the gravity and the duration of the investigated deed. Such base level may be increased or reduced depending on the existence of aggravating or the mitigating circumstances. For example, mitigating circumstances include the effective implementation of a competition law compliance programme and active cooperation with the RCC's case handlers. Aggravating circumstances include recidivism or the reinitiating of the cartel.

In case of associations of undertakings, the fine applied to associations of undertakings may not exceed 10% of the total turnover of each member active on the market affected by the association's infringement.

### **Right of appeal against civil liability and penalties**

Sanctioned parties may appeal the RCC's decision in order to seek its annulment before the Bucharest Court of Appeal. The decisions may be challenged within 30 days upon their communication. The court has the prerogative to review the decision under all aspects of fact and law. Almost all decisions issued by the RCC are subject to annulment.

Some procedural omissions or errors made during the investigation or in the RCC's decision-making process may be challenged only within a specific term (e.g., 72 hours from communication for judicial authorisation of dawn raids). Since 2016, decisions regarding access to confidential information are no longer qualified anymore as unilateral administrative acts; they may be challenged only along with the RCC's final decision with respect to the investigation.

There are cases where courts ruled differently when the RCC's decision was challenged separately by the sanctioned undertakings, even if the facts and evidence were identical for all sanctioned undertakings, mainly because precedents do not have the force of law in our legal system.

Courts may also consider new evidence, not only those from the RCC's file, such as: documents; witnesses; and expert evidence. Also, the courts have started to admit a wider range of evidence (e.g., expert appraisements). There are no officially acknowledged and certified competition experts that may be used to establish the existence of cartels in court, but the judge may ask non-binding opinions from "specialists" in competition.

Up to now, we have limited cases where the court has overturned RCC's decisions. Nonetheless (a) the courts have started to pay more attention to assessing the evidence provided by the parties, and (b) have started to reduce fines imposed by the RCC by conducting an analysis of the proportionality of the said fines. For instance, in 2017, Bucharest Court of Appeal maintained 71% of the challenged fines.

### **Criminal sanctions**

As mentioned above under "Overview of the law and enforcement regime relating to cartels", criminal liability for competition law infringements is exceptionally triggered. To the best of our knowledge, there has been only one case in which an individual was criminally prosecuted for participation in a cartel. However, we expect anti-competitive criminal case-law on bid rigging to be banned by article 246 of the New Criminal Code.

The RCC and criminal investigation bodies have the legal possibility to simultaneously investigate the same deed based on different grounds, which raises some questions in terms of cooperation between these authorities.

Article 34 (6) of the Competition Act allows for information collected during investigations

to be used also for the more extensive purpose of applying the law in the area of competition and states the RCC's right to inform other public authorities if aspects under their jurisdiction are found. The generality of these provisions raises questions as to what type of information the RCC will provide to other authorities: all confidential information obtained by competition law-specific procedural instruments, including information received in the context of leniency or acknowledgment.

The absence of express limitations in this respect would, in fact, render leniency or recognition policies less appealing, especially in bid rigging cases, as it brings exposure to individual sanctions if the information provided to the RCC is disclosed to the criminal authorities.

As the number of investigations launched based on information received within the Module of Bid-Rigging and from authorities investigating criminal cases has increased, new and clear rules should be enacted to: (a) introduce specific boundaries to information exchanges with prosecutors; (b) increase cooperation transparency; and (c) ensure the protection of the parties' rights under the RCC's investigation.

### **Cross-border issues**

According to article 2 (5) of the Competition Act, domestic competition rules apply to all practices with anti-competitive effects on the Romanian market, even if the infringement was committed outside Romania. The RCC, as a member of the European Competition Network ("ECN"), applies article 101 of the TFEU according to the Council Regulation (EC) no. 1/2003, when trade between Member States may be affected.

Settled practice between ECN members shows that the European Commission and national competition authorities inform each other of new cases, coordinate investigations and other information relevant to their activity. In addition, the RCC can exchange evidence with the European Commission and any other European competition authority.

Also showing close cooperation between the RCC and other national competition authorities is the Cartels Office's legal possibility to proceed to dawn raids at the European Commission's or other national competition authorities' request. Appointed representatives of competition authorities from EU Member States can participate in the dawn raids requested by them and effectively carried out by the RCC.

For instance, in June 2016, the European Commission carried out dawn raids at companies in the gas market from Romania, in a European case concerning a potential anti-competitive behaviour aimed at hindering natural gas exports from Romania to other Member States.<sup>23</sup>

### **Developments in private enforcement of antitrust laws**

The domestic competition framework acknowledges third parties' right to file claims both before (so-called *stand-alone* actions) and after the issuance of a sanctioning decision by the RCC (so-called *follow-on* actions). Representative actions for damages on behalf of consumers brought by certain bodies or "class actions" are also included.

In this field, the Directive on private enforcement, transposed through the Emergency Government Ordinance no. 39/2017, further amended our national legal framework. The following are the most important modifications:

- (a) The Court may impose disclosure of evidence to the defendant/a third party. The Court can also request the RCC disclosure of evidence available in its file when these evidences cannot be obtained from the parties/other third party. However, some types

of evidence can never be disclosed, such as: leniency declarations/transaction proposals. Moreover, there is no disclosure procedure independent of a trial already brought before a court. It would be useful to regulate this specific issue as victims of competition law infringement could find themselves unable to provide evidence for bringing a private enforcement claim.

- (b) The RCC's final decisions establish an absolute legal presumption of the existence of the illegal anti-competitive deed.
- (c) The statute of limitation is five years for stand-alone actions, as well as for follow-on actions, and it starts running from the time the plaintiff knew or should have known of the infringement, the damage caused by this infringement and the identity of the infringer.
- (d) It is presumed, until contrary proof is provided, that cartels cause damages.

Up to this moment, the national courts have dealt with only two private litigations on antitrust matters (i.e., stand-alone actions). In both cases, the first jurisdiction court held that the claimants have not proved the alleged infringements of the Competition Act. In one of these cases, Bucharest Court of Appeal awarded the appeal and obliged the defendant to pay the plaintiff an indemnification of approximately €930,000. The decision was upheld by the High Court of Cassation and Justice.<sup>24</sup> Private enforcement remains for now a developing area in Romania.

### Reform proposals

Regarding legislative developments which impact cartel enforcement policy, there are several projects currently being debated in Parliament:

- (a) One of the projects provides that in case the turnover of the companies that have infringed competition law is below €1 million, the fine will be applied by considering only the turnover achieved on the relevant market concerned by the infringement.<sup>25</sup> This will therefore lead in some cases to a reduction of the fine quantum. A second project includes a similar proposal but without referring to any threshold.<sup>26</sup>
- (b) In addition, this second project provides that in case the RCC's decision is challenged in court, it becomes enforceable when the court's decision becomes final. Such amendment is unlikely to be adopted, given that the fines applied by the RCC (if confirmed) would be transferred to the State's budget years after the issuing of the RCC's decision.
- (c) A third project proposes the generalisation of the obligation to provide RCC with information regarding prices for all companies, regardless of the economic sector in which they are active.<sup>27</sup> According to the project, such information could be requested for realising price comparisons on online platforms. Therefore, it looks like price comparison platforms will be used in economic sectors other than food and fuels.

\* \* \*

### Endnotes

1. Competition Act no. 21/1996 republished in the Official Journal of Romania no. 153 on 29 February 2016.
2. Emergency Ordinance no. 39/2017 published in the Official Gazette, Part 1, no. 422, 8 June 2017.

3. Directive 2014/104/EU of the European Parliament and of the Council of 26 November 2014 on certain rules governing actions for damages under national law for infringements of the competition law provisions of the Member States and of the European Union Text with EEA relevance, OJ L349.
4. Before this modification, only the secondary legislation provided this possibility.
5. Regulation Procedure, published in the Official Gazette, Part I, no. 601, 26 July 2017.
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### **Mihaela Ion**

**Tel: +40 21 317 7919 / Email: [Mihaela.Ion@pnsa.ro](mailto:Mihaela.Ion@pnsa.ro)**

Mihaela Ion is a partner at Popovici Nițu Stoica & Asociații and the head of the competition practice group. Her areas of expertise cover in particular antitrust litigation, unfair trade practices, consumer law, merger control proceedings and state aid. She also assists clients in structuring and implementing compliance programmes and providing regular training as external legal counsel on all relevant aspects of competition law. *Chambers Europe* reported Ms. Ion as having “great expertise in antitrust investigations and wider competition law”. Ms. Ion holds a degree from ‘Lucian Blaga’ University of Sibiu and is a member of the Romanian Bar Association. She also holds a Master’s degree in European and International Business, Competition and Regulatory Law from Freie Universität Berlin, a Master’s degree in competition from the Bucharest Academy for Economic Studies and a Master’s degree in international relations and European integration from the Romanian Diplomatic Institute.



### **Silviu Stoica**

**Tel: +40 21 317 7919 / Email: [Silviu.Stoica@pnsa.ro](mailto:Silviu.Stoica@pnsa.ro)**

Silviu Stoica is a partner with Popovici Nițu Stoica & Asociații. His practice focuses on a broad range of contentious and non-contentious competition matters, with an emphasis on cartel investigations and industry inquiries, abuses of dominant position and antitrust disputes. Mr Stoica also advises clients on restrictive agreements and works closely with in-house corporate counsels in sensitive internal compliance reviews. Mr Stoica has been commended in *Chambers Europe* as a ‘strategic and realistic’ competition lawyer who is ‘business-friendly and very easy to communicate with’. Mr. Stoica also has wide experience in advising private equity funds and strategic investors, in relation to mergers & acquisitions. Silviu Stoica holds a degree in law from the University of Bucharest Faculty of Law and is a member of the Bucharest Bar Association. Mr Stoica attended the course on US legal methods – introduction to US law at the Institute for US Law in Washington, DC, and the International Development Law Organization development lawyers course (DLC-20E) in Rome.

## **Popovici Nițu Stoica & Asociații**

239 Calea Dorobanti, 6<sup>th</sup> floor, Bucharest, 1<sup>st</sup> District, Postal Code 010567, Romania  
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