

Final win before the High Court for the RTPR litigation team. The stake – maintaining the current electricity distribution system in Romania!



A notable success obtained by RTPR representing Electrica group's electricity distribution company, together with lawyers representing the other distribution operators. After almost five years of trial before the Bucharest Court of Appeal and HCCJ and two objections of unconstitutionality later, the ruling pronounced in the appeal by the High Court emphasized the conformity of the current electricity distribution system, challenged by two companies of RCS-RDS group, with the competition legislation. An opposite solution would have dynamited the current system, jeopardising the public service nature of the electricity distribution.

The RTPR team was led by *Partner* **Valentin Berea** and included *Counsel* **Alexandru Stanoiu**. Their arguments showed that the current concession system did not eliminate competition and did not breach the principle of economic freedom, its specificity lying in the fact that competition takes place at the moment of the tender for awarding the concession right for this public service, which, once granted, has an exclusive character.

“We are happy that we finally have a definitive ruling in this file in which our opponents have raised very interesting administrative and constitutional law issues. Basically, the merits of the case concerned the relationship between the regulation of public services of general interest, such as electricity distribution and the general principles regarding competition and economic freedom. Although as a competition lawyer I am a supporter of competitive markets, in this case it is obvious that the natural monopoly granted by law and concession contracts to electricity distributors is not compatible with unrestricted competition. The benefits of competition are achieved in this sector mainly for electricity supply, which is currently a liberalized market. I find the comparison with the railways eloquent: is it efficient to build separate railway networks that compete with each other, or is it preferable to develop the existing network to be used by several rail transport service providers, in a competitive regime? After all, it is a matter of legislative opportunity, which a court cannot censor, because it would breach the principle of separation of powers”, declared **Valentin Berea**.

*RTPR litigation team* includes 10 lawyers specialised in areas of excellence such as competition, intellectual property, arbitration, constitutional disputes, tax litigation, GDPR, tech law and regulatory disputes.

**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.

