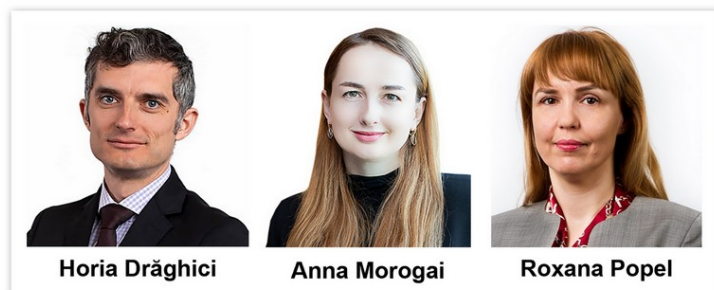


CMS advises an international oil & gas company in Romania on successful multimillion-euro tax litigation case

**Horia Drăghici****Anna Morogai****Roxana Popel**

International law firm CMS is pleased to announce that it has successfully represented in court a subsidiary of an international oil & gas company in Romania in a 6-year-long VAT dispute with the Romanian tax authorities. The case sets out a unique legal precedent in Romania, as it deals, in premiere, with the complex issue of VAT treatment of oil and gas exploration activities resulting from Farm-Out and Joint Operations agreements. Recently, a final ruling was handed down by the Romanian Supreme Court.

By way of case background, the Romanian subsidiary entered into a Farm-Out Agreement (FOA) and a Joint Operation Agreement (JOA) with a Romanian partner for the exploration and exploitation of oil perimeters in Romania.

Following a tax audit, the Romanian fiscal authorities unlawfully established, not only that the company did not have the right to VAT reimbursement related to its oil exploration activity in Romania but owed to the Romanian authorities additional VAT and related penalties. For reaching this assessment, the Romanian tax authorities misinterpreted the commercial arrangements between the parties and ignored the parties' contractual will in carrying out the oil and gas exploration activities.

In November 2017, the Bucharest Court of Appeal allowed the challenge, annulled the tax decision and ordered the tax authorities to reimburse to the Romanian subsidiary all the unlawfully collected VAT. Recently, the Romanian Supreme Court issued a final ruling by which it upheld the Bucharest Court of Appeal judgment.

Horia Draghici, *Partner, Head of CMS Romania Dispute Resolution*, said: "We are delighted to have successfully assisted the company in this complex file. Our Tax Litigation team represented the client during all stages of this dispute beginning with the preliminary administrative challenge to the trial in front of the Romanian Supreme Court. This is the third win in court for CMS's Tax Litigation team which represented the company in three similar VAT disputes. All courts had a consistent approach and upheld that the commercial undertakings of the parties cannot be disregarded by tax authorities during tax inspections".

This complex case was handled by CMS's integrated Tax Litigation team formed of lead dispute resolution lawyers: **Horia Draghici** (*Partner & Head of CMS Romania Dispute Resolution*) and **Anna Morogai** (*Associate, Dispute Resolution*), as well as lead tax advisor **Roxana Popel** (*Tax Director & Head of Tax CMS Romania*). The wider team included, amongst others: *Tatiana Casapciuc*, *Sorin Predescu* (*Dispute Resolution*), *Andrei Tercu* (*Tax*), *Varinia Radu* and *Ramona Dulamea* (*Energy*).

CMS has a leading Tax Litigation practice, offering uniquely integrated tax dispute assistance. The firm's pre-eminence in this area is evidenced by the high-level support provided to a series of prominent international and local companies in successfully challenging multi-million EUR tax liability decisions in court.