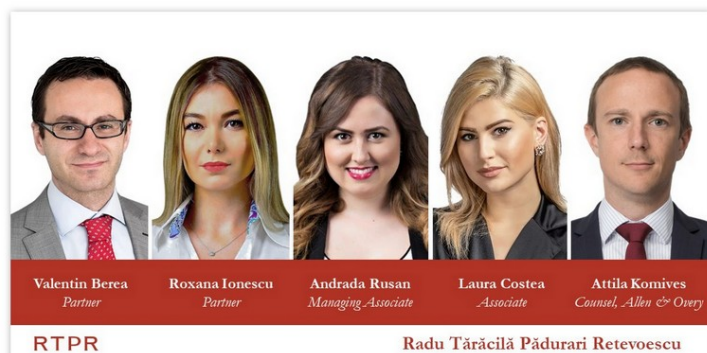


Historic victory for RTPR at the Court of Justice of the European Union: the basis for calculating fines for competition infringements will have to reflect the real economic situation of the sanctioned companies



RTPR competition team made of [Valentin Berea](#), [Roxana Ionescu](#), [Andrada Rusan](#), [Petrus Partene](#) and [Laura Costea](#), together with their colleague [Attila Komives](#) (Allen & Overy) contributes to the creation of EU law through a win regarding the principles of how the fines applied by the competition authorities are calculated.

Following a request from RTPR for a preliminary ruling in a national case concerning the court challenge of a fine imposed by the Competition Council on a media agency, the Court of Justice of the European Union ruled that proportionality and substance over form principles will prevail in the calculation of the percentage fines applied by reference to turnover.

What is the stake of this historic decision? For certain companies (such as *media agencies, travel agencies, bookmakers, ticket offices, labour recruitment companies, auction houses* etc.), the nature of their business requires that various amounts transit the company accounts temporarily and for operational purposes (e.g., *advertising budgets, tourist packages, other amounts reimbursed to clients*). Depending on the accounting approach chosen, this may mean that the balance sheets of the respective companies will also reflect all these amounts in their turnover.

Against this background, the Court ruled that the formalist approach whereby when applying the fine (which for competition law infringements is calculated as a percentage of the turnover of the sanctioned company) the national competition authority takes into account in all instances the accounting turnover of the company, without analysing the company's arguments that prove that the turnover mentioned in the balance sheet does not reflect the real economic situation of the company, is contrary to EU law.

The decision strongly contributes to the clarification of the rules regarding the calculation of fines for competition law infringements and will have long-term effects for all companies sanctioned for competition law infringements, whose turnover does not reflect their real revenues. The jurisprudence of the Court is binding and constitutes a source of law for all EU Member States.

This is not the first victory for RTPR at the Court of Justice of the European Union having large-scale implications. In 2020, RTPR obtained a [preliminary ruling](#) that led to the clarification of the capital markets investors' rights, by defining the term *consumer* for non-professional investors trading on capital market platforms.