

Ioana Gelepu The Office Litigation & Enforcement obtains a definitive ruling in favor of a well-known restaurant operator



Ioana Gelepu The Office Litigation & Enforcement obtains a definitive ruling in favor of a well-known restaurant operator, by which an unfair competition action is admitted, being banned acts such as the misappropriation of clientele. The litigation was initiated by a leading company which operates in 3 interconnected business areas: restaurants operator, events catering and food court operator.

The solution issued by the High Court of Cassation and Justice on January 18, 2024 ends a judicial dispute which lasted for over 4 years, involving voluminous evidentiary material, including an accountancy expertise and the hearing of 7 witnesses.

Through the final ruling, the court established that the following unlawful acts had been committed and ordered, essentially, to be prohibited:

1. the use, within a restaurant operated by a competitor, of the concept by which the plaintiff's activity in the relevant sector became known, but also of the essential elements contained in the offer made by the plaintiff to a potential client;
2. the use of the plaintiff's confidential commercial information;
3. actions undertaken with the aim of obtaining from the plaintiff's suppliers similar terms to those applied in relation to the latter;
4. misappropriation of clientele.

Also, there have been granted damages consisting of the loss of the chance to achieve certain economic results from the relationship with a potential client (a well-known bank) and, respectively, a misappropriated client (a private school).

To establish the illicit facts described above, the courts carefully scrutinized a variety of legal issues, some at the juncture of traditional notions (such as good faith conduct or honest customs) and assumptions that were rigorously and pragmatically drawn based on an extremely dense factual background, including a veritable radiography of the competitor's numerous actions during the period under trial.

This examination even covered aspects relating to the specific design of the parties' restaurants and the manner in which the dishes were presented (with the conclusion that the concept used by the plaintiff in its restaurants had been reproduced), the types of dishes proposed by each competitor within the menu offered to a potential client and the related prices, as well as the applicability of the rules ensuring a healthy functioning of the market, such as those protecting trade secrets.

For more details on The Office Litigation & Enforcement you may consult <https://en.gelepu.ro/>.