

Comeback and final victory before the Ploiesti Court of Appeal for RTPR's tax litigation team for Rosti Romania SRL: adjustment of the tax loss made by estimation deemed illegal; the transfer pricing file not contested by the tax authorities must be taken into account



In the present case, the Regional Directorate of Public Finance Ploiesti – AJFP Prahova considered in 2019 that the accounting loss recorded by the Company should be adjusted, the fiscal situation being retained exclusively by estimate, ignoring all the accounting records of the Company, including the transfer pricing file. After 7 long years, sprinkled with victories, scraps and referrals for retrial, the taxpayer's ordeal ended with a definitive victory, the Ploiesti Court of Appeal ruling that the taxation by estimation was illegal, and the transfer pricing file not contested by the tax authorities should have been taken into account at the time of issuing the tax inspection report.

The real complexity of the case, however, resulted from counteracting the presumption of legality of ANAF's position, according to which it was necessary to apply the exceptional provisions that allow taxation based on estimation, given that the documentation and accounting records showed a different factual situation.

Last but not least, the presence of the cross-border element should be mentioned, because in this case, transactions that took place in several jurisdictions, and not only in Romania, such as Germany and the Netherlands, were analysed.

The team of lawyers from RTPR involved in the management of the project was made up of [Alexandru Stanoiu](#) (Counsel) and [Serban Nitulescu](#) (Associate)

Alexandru Stanoiu told us: *“The satisfaction of obtaining a victory even after 7 years of trial is all the greater as it comes against the background of a comeback, our team turning the result around and permanently believing in the fairness of our position. This victory is part of a series of important successes of the tax litigation team at RTPR, which has lived up to the client's expectations in a case of great complexity even for tax professionals, due to its interdisciplinarity. It is yet another proof of the fact that hard work, team spirit and dedication, combined with experience and skill produce excellent results for both the client and great satisfaction for us as lawyers.”*

RTPR's [Disputes & investigations](#) practice has extensive experience in various areas such as tax law, competition law, intellectual property, information technology, administrative litigation, national and international arbitrations.

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