

Executive summary of the Romanian Competition Council Decision no.58 of 18 October 2012 on the infringement of Article 5 (1)a,g) of the competition Law No. 21/1996 and of Article 101 (1)a,b) of Treaty on the Functioning of the European Union by the National Union of Bailiffs from Romania

An investigation concerning the possible infringement of competition rules on the market for bailiff services was opened by Order no. 493 of 18 April 2011 issued by the President of the Romanian Competition Council. The legal basis was defined by the provisions of Article 26 (1)a) in conjunction with those of Article 34 a) of Romanian competition Law No.21/1996 and by the provisions of Article 3 (1) and Article 5 of Council Regulation No 1/2003 of 16 December 2002 on the implementation of the rules on competition laid down in Articles 81 and 82 of the Treaty establishing the European Community (now Articles 101 and 102 of Treaty on the Functioning of the European Union).

The investigation was opened having regard to the provisions of the Statute of the National Union of Bailiffs and of the bailiff profession, which imposes both certain mandatory expenses fixed by the professional body for its own members and a discriminatory entry restriction- a 5000 Euros fee. Also, the Statute included provisions regarding a potentially discriminatory regimen of the professional training.

The Competition Council's investigation considered two possible infringements of the competition rules by the National Union of Bailiffs on the market for the provision of these professional services.

Following the investigation opening, the Competition Council performed dawnraids at the premises of the professional body and at those of the Bucharest Court of Appeal Bailiffs Chamber.

The investigation found that the National Union of Bailiffs had issued decisions imposing the identifying and fixing of certain costs, which implied exchange of sensitive information between members of the professional body and exceeded the legal framework established by Law No.188/2000. Also, the decisions regarded an entry restriction in the form of a 5000 Euros fee, not applying to close relatives of currently registered bailiffs. The professional training programmes were also conceived in a discriminatory manner so they could lead to the exclusion from the market of some members.

The relevant market concerned by these findings is the Romanian market for the provision of bailiff services.

The Competition Council sanctioned the National Union of Bailiffs, for infringement of Article 5 (1)a, g) of the competition Law No.21/1996 and of Article 101 (1) a,b) of Treaty on the Functioning of the European Union, with a fine of 539089 lei. Also, the competition authority decided that the National Union of Bailiffs must eliminate the anticompetitive provisions from its Statute.