
E-finance - Litigations and Arbitration

“It is necessary that the number of judges increases”

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Interview with Adrian-Catalin Bulboaca, Managing Partner of Bulboaca & Asociatii SCA

Bulboaca & Associates is based on corporate type consultancy, your expertise is quite rich in banking. How important are litigations and arbitration for the company that you manage? What were the key moments in the history of the development of the litigation department?

It wasn't a specific moment. Our litigation department developed together with our entire activity.

Can you tell us what was the first litigation that you resolved? Was it hard, was it easy? What do you think about the litigations between companies at this moment? Are they more complicated, are there involved larger amounts of money, are they passing beyond the borders of Romania?

Shortly after the company was constituted, we represented a client in a contentious procedure before the National Audiovisual Council of Romania against a television station with a high audience. The case was finalized successfully for our client, and this fact encouraged and stimulated us. As it is a less commune procedure, the professional satisfaction was so much higher.

Lately, many law firms are consolidating their litigation departments, by hiring more attorneys as well as by training the ones existing in the company. Do you already have attorneys specialized in litigations, will you increase their number? How long does it take for an attorney to become a good litigator and what qualities should he have as a plus towards other attorneys?

Our litigation department increased organically, based on concrete solicitations received from our clients. We wish to maintain the same strategy for the future as well. Certainly, a litigation attorney may reach a satisfactory level in 4-5 years of practice at least and needs to be very well prepared in civil procedure and to have speed in thinking and reaction as well. Of course, well grounded theoretic knowledge, practical experience, correct, coherent and persuasive oral and written expression are other qualities absolutely necessary to a pleading attorney.

In the context of the economic crisis deepening at a global level, it is expected that the number and complexity of litigations increase. What does this mean for the Romanian attorney's market?

This is certainly a natural consequence of the financial crisis and may be seen as an opportunity for attorneys.

In what sub-domains of litigation have you specialized? How important is specialization for a litigator attorney?

Our specializations are in intellectual property, particularly, and commercial litigations, generally. There are certain branches in law which require a higher specialization, such as competition law or intellectual property law. For this reason, within Courts there have appeared panels specialized on certain domains (such as intellectual property panels).

Which are the main reasons for which a company sues another company? Why are not the Romanian firms aware of the commercial arbitration procedure and prefer court trials for many years?

I believe there is a reticence towards arbitration because the parties are afraid of the possible lack of objectivity. Moreover, the arbitration procedure is not very popular, being quite unknown. As time passes, it is likely to become a real alternative of the court procedure.

How do you consider the activity of the commercial sections in Romanian Tribunals? Can judges handle the large number of cases?

I would rather not comment on this subject. There have been progresses, but there is still room for improvement. The large number of cases is a real problem and only logic solution would be increasing the number of judges, because the access to justice cannot be limited.

Do you believe that the future Codes (Civil Code, Criminal Code, Civil Procedure Code and Criminal Procedure Code) will succeed in reducing the duration of lawsuits between companies?

The tendency of reducing the duration of lawsuits by regulating certain simplified procedures is older, but progress appears later. Sometimes the parties themselves even (especially the defendants) are provoking the tergiversation of the case resolving. I believe they should look for solutions through which this form of process abuse is punished more severely.

Which are your main competitors in the litigations you resolve? How do you treat one another and how do you get along with "the adversaries"?

Generally, in the litigations in which we are involved we have as adversaries important law firms. With the majority of these attorneys we have good relations and, despite the contradictions which characterize the court activity and of the fact that we always do whatever possible to win (within the limits of professional ethics), often we are friends outside the court rooms.

Profile Bulboaca & Associates

The team managed by Valentin Berea deals with sophisticated litigations

The manager of the litigation department, Valentin Berea, has graduated from the Faculty of Law within the University of Bucharest and Faculty Paris I Pantheone Sorbonne.

The litigation department of Bulboaca & Associates was created at the same time with the company itself, in January 2007. "Currently, within our company, we have 4 attorneys, which deal mainly with litigations, the manager of the department is Valentin Berea", Adrian-Catalin Bulboaca, the managing partner of the company declared.

The main domains of activity

Litigations in intellectual property, competition law, commercial litigations, against custom-house authorities, insolvency

The profit obtained from litigations in 2008 was 7% of the turnover, higher than 2007, when it represented 2%.

The most important resolved cases of litigations

- Representing an important distributor of pharmaceutical products in litigation against the Competition Council concerning the most important case on the local market in the domain of competition law (at least regarding the applied penalties), respectively the investigation on the insulin market. In the first process stage it was obtained, for the client represented by Bulboaca & Associates a reducing of the penalty of 75%.
- Representing successfully one of most important producers of non-alcoholic beverages in a series of litigations against the National Customs Authority, as well as against other competitors in the domain of intellectual property.
- Representing a large producer of construction materials in a litigation regarding an important trade-mark against another significant competitor.

The manager of the litigation department, **Valentin Berea**, was born on 04.02.1980. He graduated from the Faculty of Law within the University of Bucharest and Faculty Paris I Pantheone Sorbonne.

Valentin Berea represented a large international mobile telephony operator in the most important litigation in the domain of intellectual property in Romania. He is also specialized in competition law, and is at the same time a consultant in industrial property, trade marks and industrial designs specialties and collaborator of the civil law chair of the Faculty of Law, University of Bucharest. He is specialized in litigations in the domain of intellectual property and in commercial litigations.

The most important resolved cases or which are being conducted in this moment: the litigation concerning the investigation on the insulin market; the litigation regarding the defense of the right over a trade-mark pertaining to a mobile telephony operator, trade-mark evaluated at over 1 billion EU; the litigation regarding the defense of intellectual property rights of one of the first 3 international tobacco producers against a direct competitor.