

**PRACTICAL  
COMPETITION LAW:  
COMPLIANCE,  
LENIENCY AND  
DAMAGES**

bpv | LEGAL

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bpv GRIGORESCU and bpv LEGAL invite you to:

**"PRACTICAL COMPETITION LAW: COMPLIANCE, LENIENCY AND DAMAGES"**

**Bucharest, 29 October 2008,  
Radisson SAS Hotel**

First in a series of four seminars to be held jointly by bpv LEGAL member firms in major CEE jurisdictions

**Why you should attend**

Compliance with competition law is higher than ever on the risk management agenda for companies in all sectors. The penalties for breaching competition law are severe and constantly on the increase and may amount up to 10% of global turnover of firms, while in certain jurisdictions criminal prosecution is an additional threat. In 2007, the European Commission alone imposed cartel penalties in excess of EUR 3.5 billion. The law is complex and fast-changing, as the EU and national competition authorities continue to refine and focus their approach to competition enforcement.

With expert speakers from private practice, you will hear from practitioners who are at the center of these developments. They will share their experience and give you a comprehensive and commercially oriented update on the key practical enforcement issues which will enable you to carry out within the company a learned self-assessment and thus assist you in minimizing risks and limiting financial damage.

The seminar will cover EU rules, which apply in all target legislations, but will include presentations of specific aspects of the respective national competition law which applies in the jurisdiction where the seminar is held, wherever appropriate.

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Seminar details

### **Who should attend**

Executives and top managers, in-house lawyers and compliance officers.

### **Speakers**

Dr. Astrid Ablasser- Neuhuber, René Plank (bpv HÜGEL RECHTSANWÄLTE, Vienna)  
Catalin Grigorescu, Anca Grigorescu (bpv GRIGORESCU, Bucharest)  
Ovidiu Budusan, Gabriel Albu (invited speakers, Budusan, Baldea si Asociatii)

### **Venue**

Radisson SAS Hotel, Bucharest  
Taygete room,  
63-81, Calea Victoriei Street

### **Schedule**

14:00 - 18:00 Seminar  
18:00 – 19:30 Cocktail Reception

### **Contact and Registration**

If you are interested in attending the first seminar in Bucharest or any of the seminars held in other locations please contact Ms. Stefania Vasiliu on [stefania.vasiliu@bpv-grigorescu.com](mailto:stefania.vasiliu@bpv-grigorescu.com) or at (+40 21)264 16 50.

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**bpv LEGAL** was founded in 2006 as an alliance of four business law firms represented in Brussels, Bucharest, Budapest, Prague and Vienna and offers cross-border legal advisory services to clients in Central and Eastern Europe with a joint team of more than 95 lawyers and tax professionals.

The internationality of the cooperation within bpv LEGAL is key for successful implementation of cross-border transactions. The alliance has worked together in projects for several years and provides efficient, tailor-made solutions in a comprehensive range of practice areas, including Corporate and Commercial Law, Mergers and Acquisitions, Antitrust, EU and Public Procurement, Real Estate, Environment and Energy, National and International Tax, Labour Law, Corporate Financing and Banking, IP, Internet and Media Law and Litigation/Arbitration.

Competition law is one of bpv LEGAL's major practice areas. Its Competition Law Practice Group offers outstanding legal services throughout Central and Eastern Europe. Its team of specialised lawyers, which is showing high in international rankings, offers competence and excellence on all aspects of national and European competition law. Our clients can rely on specific local support and a region-wide network, which is particularly valuable in mergers, antitrust and leniency cases which require applications in multiple jurisdictions.

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bpv GRIGORESCU profile

**bpv GRIGORESCU** is a Romanian business law firm providing high quality legal advisory services to international and local clients.

bpv GRIGORESCU advises comprehensively in the areas of corporate and commercial law, M&A, antitrust and merger control, banking and finance, real estate and construction, employment and pensions, public procurement and concessions, taxation.

The firm's Competition law practice group is one of the leading Competition practices in Romania enjoying a strong appreciation by clients, peers and international legal market observers, and draws its success from a team of experienced lawyers, having practiced in this area for more than 10 years.

“A co-operative approach and hard-working ethic” means that clients return again and again to this local firm's practice”,  
**Chambers and Partners, 2008 edition**

Client feedback was highly positive regarding bpv Grigorescu's lawyers: “excellent understanding of Romanian law, combined with international commercial law,” while another stated: “The team always has the solution”, **Chambers and Partners, 2007 edition**

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Speaker profiles

**Catalin Grigorescu** leads the bpv GRIGORESCU's Competition practice. He holds an international master's degree in European Competition Law from Bremen University and has over 10 years experience as legal advisor on competition issues. He was involved in large transactions as legal advisor on merger control and antitrust compliance and litigation issues, state aid and unfair trading matters.

He is author of numerous articles on Competition Law issues, inter alia, author of the article “Legal consequences of newly adopted competition laws” in Romanian Business Law Magazine (2006), contributor to “Handbuch Wirtschaft und Recht in Osteuropa-Systematischer Länderteil Rumänien“, author of article “Control of economic concentrations – additional procedures following the accession to the EU” in Romanian Business Law Magazine (2007).

He is member of the Bucharest Bar Association and of the International Bar Association .

**Anca Grigorescu** is a founding partner of bpv GRIGORESCU. Previously, she worked for almost ten years within major international law firms with strong Central and Eastern European presence. Following graduation from the Law Faculty of the University of Bucharest, she obtained a Master's degree in EU Law (with focus on liberalization of telecommunications markets) from the University of Bremen. She is heading the firm's Taxation, Employment and Regulatory group. Ms. Grigorescu is a frequent speaker on seminars and various industry meetings and author of articles on Investment Structuring, Financing, Taxation and Employment issues.

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**Dr. Astrid Ablasser-Neuhuber** studied law at the University of Salzburg (1993 Mag. iur., 1997 PhD) and obtained a Master degree in journalism and French, at the same university (1997 Mag. phil.). In 1995 she did a stage at European Commission (Directorate-General for Competition, Merger Task Force) followed in 1998 by the court practice at the Cartel Court (as legal assistant to President) and an internship with Linklaters & Alliance (London).

In 1998 she joined HÜGEL & Partner/Haarmann Hemmelrath HÜGEL as an associate, then becoming partner in 2004 and since autumn 2006 she is head of the competition law department of bpv HÜGEL. She is a frequent speaker at seminars and conferences, has numerous leading nominations in national and international rankings and publications and is member of the International Bar Association, Union Internationale des Avocats, Vienna Bar Association and Studienvereinigung Kartellrecht e.V.

**René Plank** joined bpv HÜGEL Rechtsanwälte in 2008. Following law school he obtained an LL.M. in International Business Law. Previously, he worked for the European Commission in the Transports sector and the Austrian Federal Ministry for Foreign Affairs (Vienna/New York). He has extensive work experience in antitrust due to his employment at the European Commission's Directorate-General for Competition (2005 – 2008), where he was involved in cartel and abuse of dominance cases both at the administrative and litigation stages.

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Speaker profiles

**Ovidiu Budusan** started a very challenging partnership in 2007 by setting up the law firm Budusan, Baldea si Asociatii along with a group of the finest law professionals.

Previously he led for three years the Law Department of Press Monitoring Agency – Academia Catavencu and his professional expertise was among the catalysers of several ambitious investigation journalism and human rights watch projects.

Ovidiu Budusan started his career in 1993 as a prosecutor with the Prosecutor's Office of Cluj-Napoca Local Court and then Cluj District Court. As Prosecutor-in-Chief of the White Collar Crimes Bureau, later as head of the Serious Fraud Division and then Deputy Chief Prosecutor of the Section for Criminal Investigation and Forensics within the Prosecution Office of the Supreme Court of Justice, Ovidiu coordinated sophisticated crime investigations and was part of the nucleus which organised the very first national anticorruption structure in Romania.

In 2000, Ovidiu Budusan became the Prosecutor-in-Chief of the Anti – Corruption and Organised Crime Section of the Prosecution Office of the Supreme Court of Justice.

He is a member of the Bucharest Bar Association since 2004.

**Gabriel Albu** is a partner with Budusan, Baldea si Asociatii where he coordinates the commercial projects department and is also one of the coordinators of the multitask team in charge of white collar crime cases.

His professional experience is focused on corporate and commercial litigation, white-collar crime and international arbitration.

He started his career as an associate with CMS Cameron McKenna, where he worked for almost three years, starting with 2002. He specialised in commercial law and represented important clients in fiscal, commercial and civil litigation. In 2004, Gabriel Albu joined Salans Bucharest, where he had the opportunity to consolidate his experience and represent international energy distribution companies.

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Programme

## **1. The subject matter: prohibited anti-competitive practices**

### **Which practices are prohibited?**

Cartels and other agreements (e.g. vertical restraints), abuses of dominant positions; how can these practices be identified?

### **Exemptions from prohibition**

Possibility to exempt agreements if there are overriding benefits, companies have to carry out self-assessments.

### **Inspections**

Crash-course in company strategies during unannounced dawn raids.

### **Fines**

All you need to know about administrative fines, why their level is ever-increasing at the EU level and how far authorities are willing to go (including a presentation on national fines).

## **2. Prevention: compliance**

### **Structural pitfalls**

Certain market characteristics may be conducive to violations: systematic discussions in industry associations, transparent markets with a limited number of players, economic downturns and existence of buyer power. Early identification prevents violations.

### **General prevention strategies**

Violations are often committed by employees at lower than managerial level (sales personnel etc) and thus difficult to prevent; national law: legal limits to compliance coercion, presentation of applicable Labour Law.

### **Compliance programmes**

Why are they useful to companies? Key contents, tools (training, hotlines) and scope (target employees).

### **3. Cure: leniency and settlements**

#### **What is leniency?**

Not all violations may be prevented; once it has happened, damage may be limited through leniency; EU: grant of full immunity or substantial reduction of fines up to 50%; includes recognition of the violation, does not prevent private damages claims.

National Law: presentation of leniency framework; national leniency systems become increasingly streamlined.

#### **When and how to apply**

When sufficient evidence is available to substantiate a violation (trigger of suspicion and sources of information are manifold), timing is essential for full immunity or level of reductions; marker systems - saving the “place in the queue”.

What kind of information needs to be provided (corporate statements, documents), what is worth most to the authorities? Necessary contents of leniency applications: the level of evidence has to be sufficient to satisfy objective requirements (at the EU level: points 8a and 8b of the Leniency Notice). Parallel filings may be necessary if violations affect trade or more than a single EU Member State.

#### **What happens once a leniency application is filed?**

Once it is discovered, the infringement has to be terminated: only then limitation periods start running. Monitoring of compliance after the violation has ended is essential: full cooperation is required vis-à-vis the authorities. What can you do if your employees refuse to co-operate?

#### **Settlements**

Leniency is now complemented, at the EU level, by a settlement procedure – may save litigation and reduce fines (reductions of up to 10% in addition to leniency); when could this additional reduction be of interest?

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**4. Side-effects: Damages claims, labour law issues and criminal sanctions**

**Private enforcement on the increase**

It is becoming a prominent feature of European antitrust enforcement; litigation is still in an infant stage.

**Safeguards by companies**

How can you protect yourself once violations are uncovered? Tools include oral statements, prevention of disclosure of business secrets and the names of individuals etc.; safeguards may differ depending on the jurisdiction.

**Private enforcement is a matter of National Law**

The EU “encourages” it and has presented a discussion paper (White Paper); the substantive rules are national and differ: Presentation of national rules relating to evidence, burden of proof and discovery for civil damages claims. Is it necessary that a final decision by a Court has been rendered?

**Presentation of national labour law and criminal rules**

National law: rules relating to labour law issues; criminal sanctions for individuals who commit violations.