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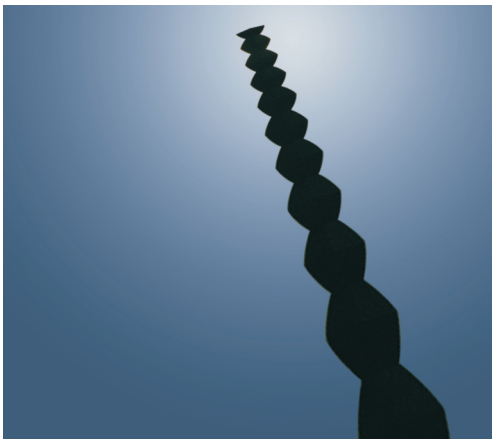
Business Guide

INVESTING IN ROMANIA



CONTENT

THE JUDICIAL SYSTEM

LEGAL FRAMEWORK

The main normative acts that regulate the organization and functioning of the Romanian judicial system are the Romanian Constitution and Law no. 304/2004 regarding judicial organization.

STRUCTURE OF THE JUDICIAL SYSTEM

Courts

Courts in Romania are represented by courts of law, tribunals, specialized tribunals, courts of appeals and the High Court of Cassation and Justice. Approximately 180 local courts represented by courts of law form the basis of the Romanian judicial system. Tribunals operate in each Romanian county and in Bucharest. The total number of these courts is 51. Apart from their own common law competencies granted under the law with respect to certain categories of litigation of medium importance, said courts may also judge legal actions filed against the resolutions passed by the courts of law in the first instance. There are also 16 Courts of Appeals, at the level of the entire country, some of which have jurisdiction over several tribunals. The decisions ruled by the Courts of Appeals may only be challenged by last appeal, which is to be judged by the High Court of Cassation and Justice.

As of the date of Romania's accession to the EU, the individual Romanian citizens, as well as the Romanian legal entities, have gained access to two additional courts of law – The Court of Justice of the European Communities (CJEC) and the Court of First Instance (CFI).

The Ministry of Justice and Citizens' Freedom

The entire activity related to the judicial system is supervised by the Ministry of Justice and Citizens' Freedom, which ensures the conditions necessary for the functioning of the judicial system in Romania by exercising its duties with respect to the organization and management of justice, with which duties it was vested under the law.

The Superior Council of Magistracy

The Superior Council of Magistracy is organized according to Law no. 317/2004 regarding the Superior Council of Magistracy and is a collegial body, independent from the public authorities. The Superior Council of Magistracy is formed of 19 members, 9 judges and 5 public prosecutors appointed in the general meetings of the magistrates forming the two sections of the Council, namely the one for judges and the one for prosecutors, 2 representatives of the civil society, appointed by the Senate, the minister of justice, the president of the High Court of Cassation and Justice and the general prosecutor of the Prosecution Office attached to the High Court of Cassation and Justice. The duration of the mandate of the members appointed by the Superior Council of Magistracy is 6 years, without the possibility of being reappointed. The Council's purpose is to ensure, together with the Ministry of Justice and Citizens' Freedom, the independence of justice. The main duties of the Superior Council of Magistracy are related to the compliance with the status of the magistrates (judges and public prosecutors) and the disciplinary control of their activity.

The Public Ministry

The representation of the society's general interests, the protection of the legal order and the protection of the citizens' rights are ensured in Romania by the Public Ministry. This authority exercises its duties through public prosecutors organized in prosecution offices, which are attached to each court of law, while being independent from the latter. The control of the public prosecutors' activity is exercised by the Ministry of Justice and Citizens' Freedom.

The Court of Accounts

The Court of Accounts is a central authority which carries out its activity attached to the Romanian Parliament, being a body with jurisdictional activity regarding the manner of establishment, management and use of the financial resources of the state and it is organized and operates in accordance with Law no. 94/1992, as republished in the Romanian Official Gazette, First Part, no. 116/March 16, 2000, Law no. 77/2002 and Law no. 217/2008 for the amendment and supplementing of Law no. 94/1992 on the organization and operation of the Court of Accounts as published in the Romanian Official Gazette no. 104/February 7, 2002.

The Court of Accounts is formed of 11 control/audit departments, a legal department, the county chambers of accounts and the account chamber of the Bucharest Municipality, the Audit Authority and the General Secretariat. According to Law no. 217/2008, the litigation arising from the activity of the Court of

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Accounts shall be solved by the specialized courts of law. The Court of Accounts' jurisdictional activity, as well as the financial judges who carried out their activity in the former financial courts of the Court of Accounts, shall be taken over by the common law courts.
By means of Law no. 200/2005, apart from the Court of Accounts, the audit Authority has been established, which is a body without legal personality, operationally independent from the Court of Accounts, and having its headquarters located in Bucharest. It was established for the purpose of fulfilling certain obligations incumbent upon the Romanian state in the process of European integration, for the funds granted to Romania by the European Union through the ISPA and SAPARD programs and for the funds which have been and are granted in the post-accession period.

By means of Law no. 217/2008, it has been established that the control function of the Court of Accounts is performed by means of external public audit procedures provided for under the authority's own audit standards, developed in accordance with the generally accepted international auditing standards, and the financial control staff employed by the Court of Accounts has acquired the capacity of external auditor.

The Constitutional Court

The authority that ensures the conformity of the legal provisions with the provisions of the Constitution is the Constitutional Court, which is organized and functions in accordance with Law no. 47/1992, as republished. Formed of nine judges appointed by the Parliament and the President of Romania for a nine-year period, without the possibility for their mandate to be extended or renewed, the Constitutional Court exercises control on the laws as follows:

(a) ***A priori* control** – (i) before the enactment of the law, following a notice from the President, the presidents of the two chambers of the Parliament, the Government, the High Court of Cassation and Justice, the Ombudsman, a number of 50 members of the Chamber of Deputies or a number of 25 senators, or ex officio, with respect to the Constitution revision initiatives, or (ii) prior to the Parliament's ratification of treaties or other

international agreements, it rules upon the constitutionality thereof, following notice from one of the presidents of the two Chambers, of a number of at least 50 members of the Chambers of Deputies or of at least 25 senators;

(b) ***A posteriori* control** – after the enactment of the law, by decision adopted subsequent to a notice with regard to a non-constitutionality exception, sent to the Constitutional Court by any interested person or directly raised by the Ombudsman.

The Constitutional Court may not render its opinion with respect to the compliance with the interpretation and implementing of the law, but only with respect to the conformity of the laws in force with the provisions of the Romanian Constitution.

DOUBLE JURISDICTION

Romanian justice is organized on the basis of the double jurisdiction principle. Therefore, as a rule, any litigation with respect to which a court resolution was ruled by a first-degree court, shall be subject to a retrial by a superior court in all respects, both on the merits and in procedural aspects, by means of a remedy at law. As a guarantee for the quality of the act of justice, this system is intended to secure the possibility of the superior court to remove a potential error made by the court of an inferior level.

LEGISLATIVE CODING

The Romanian judicial activity, being founded on the principles of Roman-German system of law, is based upon the interpretation and implementation of legal norms, in a systematized form, as legislative codes (civil code, civil procedure code, commercial code, penal code, penal procedure code, customs code, air code, fiscal code, etc.). Therefore, the Romanian legal system has not acknowledged the institution of legal precedents as a formal legal source. The Romanian judges settle specific cases according to their own conviction and their own conscience, independently from the previous court decisions ruled by other judges with respect to similar cases.

INDEPENDENCE AND IMMOVABILITY OF JUDGES

Judges (except for trainee judges), including the financial judges of the Court of Accounts and of the county chambers of accounts, are both independent and immovable. The independence of the judges directly arises from the principle of separation of state powers within the legal state, and this authority is not subordinated to the legislative or the executive power. Any interference of the public authorities, which is intended to influence the decisions of the judges, is prohibited. By being granted immovability, the judges are protected against any arbitrary decisions of revocation, transfer or suspension from said position, which decisions could represent methods of pressure directed against the respective judge. In Romania, with the exception of trainee judges, the appointment is performed by the President of Romania, upon the proposal of the Superior Council of Magistracy, while the promotion, transfer and sanctioning of the judges appointed according to the aforementioned procedure may solely be performed by the Superior Council of Magistracy.

ARBITRATION

Romanian law allows for the use of arbitration (private justice) as an alternative to the settlement of litigation by a court of common law. A dispute may be subject to arbitration if such method of settlement is agreed upon by the contracting parties, by means of (i) a compromissory arbitration clause included in the contract or (ii) through a separate convention concluded for this purpose. The

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object of arbitration may be represented only by such disputes that may be assessed in cash and are related to rights with respect to which the parties are allowed by law to reach a settlement.

Arbitration may be entrusted to a single or to several persons that must judge the dispute and pass an arbitration resolution that is binding upon the parties. Subject to the compliance with the public legal order and the manners and morals, as well as with the imperative provisions of the law, the parties may set out, through an arbitration clause or a separate agreement, the procedural rules for the performance of arbitration, the expenses incurred in the process, the content and form of the arbitration resolution, etc.
In order to organize the arbitration, the parties have the following possibilities:

- To retain the services of an arbitration institution (institutional/permanent arbitration);
- To organize the arbitration themselves, assisted by arbitrators, or to retain the services of a third party, either individual or legal entity, other than arbitration institutions (ad-hoc/ occasional arbitration).

Romania ratified, by means of internal normative acts, the main conventions regarding arbitration, signed at an international and/or a regional level, such as: the European Convention of Geneva of April 21, 1961 on international commercial arbitration and the New York Convention of 1958 for the acknowledgement and enforcement of international arbitration decisions. In regard of commercial issues, in Romania, the International Commercial Arbitration Court (the "Court") functions as a permanent independent non-governmental institution, apart from the Chamber of Commerce and Industry of Romania and the Municipality of Bucharest. The Court offers services of internal and international commercial arbitration. The method of selection of the arbitrators approved by the Court, the rules of arbitration, as well as the organization and the functioning of the same, make up the object of the Court's regulations.

MEDIATION

In the attempt to reduce the number of lawsuits subject to settlement by courts, Law no. 196/2006 on mediation and the organization of the mediator profession has been recently passed. By instituting a method for the amicable settlement of disputes, with the support of a specialized third party (the mediator), such procedure is applicable to a broad range of conflicts arisen in civil, commercial, family, criminal matters, in the area of consumer protection, etc. The only areas in which parties cannot refer to mediation concern strictly personal rights (for instance, the rights regarding personal status), and namely rights in relation to which the parties cannot legally apply such mediation by conventions or by other means provided for by law.

Mediation relies upon principles such as neutrality, impartiality and confidentiality. The mediation procedure is conducted by one or various mediators freely selected by the parties, in consideration of the trust granted to such specialized persons with respect to the support provided for the settlement of any and all differences in an efficient and amicable manner and under convenient terms for both parties,

The parties engaged in a dispute may voluntarily use the mediation procedure, even if the litigation has already been referred to the competent courts. Starting with March 3, 2010, it has been instituted, through the amendments brought to Law no. 192/2006, the obligation of judicial and arbitral bodies, but also of other authorities holding jurisdictional duties, to both inform the parties on the possibility and benefits of using the mediation procedure, and direct such parties to use such procedure for the settlement of their differences.

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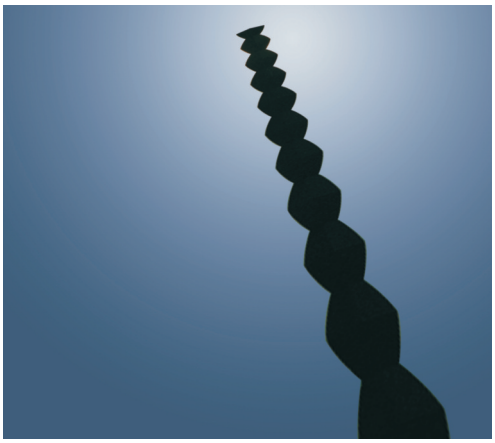

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