

## Chapter I

# Introduction

## 1. General

Romania is a mid-sized country covering an area of 238,391 km<sup>2</sup> located in the South-Eastern region of Europe, at the crossroads of major trading routes connecting Western Europe to Russia, the Near East and the Caucasian region.

**Geographical overview** – Romania has a mixed geographical natural environment, consisting of hills, plateaux and plains and the country is cut in two by the Carpathian mountains. Romania's water resources are also significant. Romania is located on the middle and lower Danube, and has a 244 km shoreline to the Black Sea. Romania's main natural resources include coal, oil, iron and other metal ores, forests.

Romania has a **population** of approximately 22 million inhabitants. Most of its inhabitants are Romanian (89,4%), while Hungarians, Germans and Gypsies are among the most representative minorities are numbered.

Romania's **culture** is part of the Latin culture, the Romania's native language originating in ancient Latin.

Neighbored by peoples of Slavic origin and Hungarians, Romanians can be considered as the closest-to-Latin civilization in the area.

86,8% of the Romanians are strongly connected to the Eastern European culture by their orthodox religion. Minorities are primarily Protestant and Roman Catholic, while the number of Muslim inhabitants (Turks, Tartars) is rather insignificant.

## 2. History

Until 1947 when the communist regime took over power, Romania was a constitutional monarchy based on the model of western monarchies, with main liberal political and economic systems. Democratic political institutions based on European-inspired legislation were at the very roots of the Romanian society.

The Soviet occupation during World War II led to the establishment of the communist regime, dissolving the democratic political institutions and leading to almost complete elimination of individual freedom and of the private property. Legislation was brutally revised.

Soon after the communist regime was overthrown in 1989, Romania underwent deep social, political and economical changes. Romania returned to its traditional democratic values and sought to reintroduce itself in the Western European social and political trends and goals.

The first important step towards democracy was made by passing the Constitution of 1991, inspired by the most modern European current constitutional sources and also by our last democratic Constitution before the World War II, the Constitution of 1923. Freedom of opinion, freedom of association, free access to justice, guarantee of ownership, market economy is among the essential values acknowledged in the current Constitution.

### 3. Economy

Prior to 1989, the Romanian economy was pretty much structured under the totalitarian system, centered on a highly centralized and nationalized economy. The forced industrialization of the country had serious social repercussion, most of the population migrating to industrial areas. After 1989, the lack of competitiveness of domestic products on western markets and the collapse of the communist economic system (CAER) called for the total reorganization of industry involving high human and material costs.

The agricultural sector also underwent major structural changes during communism. Forced collective farming coupled to State ownership of most of the land led to a highly centralized and inefficient agriculture.

After 1989, the main declared aims of the Government were to bring land property back into private ownership and introduce free-market economy.

To date, the process of withdrawal of the State from the main industries and the construction of a free-market economy based on free competition and private entrepreneurship is well underway.

Most of these objectives have already been reached. The last challenge in the economic restructuring process lies in privatizing the companies with majority State capital resulted from the transformation of the former regies autonomes – entities owned by the State or by the local administration, that supply public utilities -, active in highly important fields for the national economy, such as oil, natural gases or electrical energy.

One of the most important economic achievements was the resuscitation of the financial sector by reorganizing the banking system. The creation of the National Bank of Romania, the central bank supervising the activities of commercial banks, and the banking privatization stand as two of the most important achievements for the development of a modern Romanian banking sector.

### 4. Foreign investment and cooperation with international economic organizations

The relaunching of the Romanian economy requires heavy injection of foreign capital. In order to attract such capital, the Romanian Government entered negotiations with major world financial institutions which granted their support: IMF, World Bank, International Bank for Reconstruction and Development (IBRD), European Bank for Reconstruction and Development (EBRD), etc.

In an attempt to settle this, the Romanian Government gave a boost to foreign investments in Romania by granting legislative guarantees at the level of the international ones and by concluding numerous treaties for the investments' protection. Lately, the fiscal incentives granted to the investors are in regression, but this phenomenon's compensation is envisaged through the insurance of stability from a legislative point of view.

Certain delays in the performance of the economic reforms, of the privatization and the deficiencies that are still present in the operational process of the market economy hindered Romania from being included in the first wave for the UE's extension, in 2004. Finally, since January 1st 2007, as a recognition of its efforts and results of economic and political reforms, Romania became a member of the European Union.

## 5. Legislation

The new Constitution of 1991, inspired by European contemporary constitutions, has created the background for radical changes in Romanian legislation. To a large extent, the entire legal system has been reconsidered, and older regulations, dating even from the period prior to the communist regime and that the latter maintained, more or less, in force, such as the Civil Code of 1884 and the Commercial Code of 1887, regained the effectiveness they once had.

Laws were passed that deal primarily with property restitution and remedies provided for the abuses perpetrated by the communist regime. Simultaneously, important steps have been taken in transferring State enterprises to the private sector, in creating economic basis for the development of a competition-based business environment. In addition, steps have been taken in harmonizing domestic legislation with the Western European legislation, and especially with the European *acquis communautaire*. The business legal framework was reconsidered according to the most modern European legal mechanisms: corporate/commercial law, competition law, intellectual property law, securities legislation, as well as labor and social security law, banking law and tax law were carefully adapted by the Romanian law makers to Western legislation, especially French.

Administrative Disputes Law no. 554/2004 allows any individual or entity to file legal action against public administrative officers and institutions whenever their rights are violated by an administrative act or by an unjustified refusal by an administrative authority.

This complex law-making process was developed simultaneously with the process of justice system reorganization. Justice reorganization was devised to put into practice the constitutional principle of separation of powers. In order to emphasize the importance of this principle, the Constitution expressly provides that judges are independent and irremovable (articles 124 and 125). Furthermore, free access to justice and fair trial are expressly provided for in article 21 of the Constitution.

## 6. Dynamics

The economic and legal environment of Romania, as those of other emerging countries, is constantly adapting and changing to free market dynamics. Significant progress took place both in the "traditional" fields of the economy, such as the banking system, the energy system, as well as in newly emerging fields, such as securities and capital markets, insurance, telecommunications market. In addition, significant changes took place in the way Government deals with such issues as privatization, European integration and property restitution.

Consequently, some major State owned banks were privatized – BancPost was taken over by GE Capital which further assigned part of its shares to two other foreign banks, Banca Romana pentru Dezvoltare was taken over by Société Générale, the majority stock in Banca Agricola was purchased by a consortium comprising Raiffeisen Bank and the Romanian-American Investment Fund, also the Government has privatized the highest-ranked bank in terms of market share, Banca Comerciala Romana, Erste Bank being the majority shareholder.

In the energetic field, the deregulation process started with the reorganization of Compania Nationala de Electricitate S.A. ("CONEL") that was split into four separate companies to boost efficiency of the activities performed and to put an end to hidden State-aid. At present, the privatization of five of the companies for the distribution of the electric energy has been completed, while the privatization of the three remaining companies from this field has not been yet initiated.

The capital markets legislation was subject to dramatic changes to restructure the two specialized securities markets under the supervision of a public specialized institution (the National Securities Commission) to ensure stricter authorization and surveillance of brokerage companies. These changes form part of a broader program for the improvement of Romanian capital market aimed, among other things, at maintaining on the market only solid and operational brokerage companies. In addition, a new law on securities was passed, enforcing new concepts and mechanisms required by the latest trends on the market and by the need to harmonize internal legislation with E.U. legislation in the sector.

The insurance market was placed under the surveillance of the Commission for Insurance Supervision, appointed by the Parliament to verify the degree of compliance with the solvency margin provided for insurance companies under law. This measure, together with the establishment of new increased registered capital thresholds by Law no. 32/2000 on insurance companies, shall determine survival on the market of only secure, solid and competitive insurance companies.

Interest in the telecommunications market increased, after the total deregulation occurred at the beginning of 2003. Thus, the number of private companies active on this market is continuously increasing, also considering the Ministry of Communications and Information Technology's steps forward to assign new licenses for fixed and UMTS (Universal Mobile Telecommunication System) telephony services.

Law no. 10/2001 on the restitution and recovery of immovable property seized between March 6, 1945 – December 22, 1989 by the communist regime attempts to regulate a highly controversial field as a result of continuous internal and international lobby.

As consequence to the developments in all sectors, Romania has become member of the E.U. on the 1st of January 2007.

It is needless to remind that all the legal changes on the Romanian market, which have been only briefly enumerated above, call for constant specialized guidance.

Providing the basics for such guidance in the ever-changing Romanian business environment was our very intention when we decided to produce this booklet.