

Chapter 1

Introduction

1. Romania – geography, population, culture

Romania is a mid-sized country covering an area of 238,391 km² 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, natural gas, forests, iron and other metal ores..

Romania has a **population** of approximately 22 million inhabitants. Most of its inhabitants are Romanian (89,5%), 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. Furthermore, the economic liberalization represented a major change in terms of economic structure, as there was a shift of interest from industry and agriculture to services, thus following the normal trend of a developing economy. 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 and telecommunications market. In addition, significant changes took place in the way Government deals with such issues as privatization, European integration and property restitution.

Following the E.U. membership and the numerous improvements made in terms of economic adjustments, legal amendments and political perspective, Romania experienced a real economic boom in 2008, being considered one of the countries with the fastest economic growth in Europe. Foreign investors became extremely interested in Romania, being attracted by the rising productivity and by the various investment opportunities. The main sectors where major investments were made are real estate & construction and retail, being closely followed by banking, light industry and telecom. Moreover, local businessmen and entrepreneurs succeeded in developing innovative and very competitive businesses, being involved in all the major fields of economy.

As a consequence of the global economic downturn, starting with 2009 numerous sectors in Romania have been strongly affected and a significant number of projects have been put on hold as they failed to attract finance or due to the investors' increasing cautiousness when deciding in such matters.

In order to diminish as much as possible the effects of the economic downturn and to stimulate the level of investments, Romania adopted a more effective strategy by implementing a series of anti-crisis measures mainly targeted towards the reduction of several taxes and fees in support of the business environment, stabilizing inflation and reorganizing the public system. Moreover, Romania has shown an increasing effort in assuring more transparency and coherence in the political and economical programmes and has conducted an extensive reform of the legal framework aiming at alleviating the investment procedures and harmonizing the local legislation with the EU norms.

Thus, new amendments were brought to the Labour Code by Law no. 40/2011 which was published in the Romanian Official Gazette no. 225 as of 31st March 2011 and entered into force on May 1, 2011. The amendments are referring to issues such as individual performance, stricter and more precise job descriptions for employees, probation period, prior notice, collective layoffs, work hours, extra work hours, professional training, determined period labor agreement and temporary labor agent work. Additionally, Social Dialogue Law no. 62/2011 has been recently issued, bringing major amendments with regard to the trade unions, collective employment agreements and employment conflicts. The amendments brought to the Labour Code were highly appreciated by foreign investors, as contributes to the labour market flexibility, and it is expected to lowering black market workforce and to attract major foreign investments to the long term.

Furthermore, in an attempt to simplify all the fiscal operations and to provide a competitive fiscal environment, the fiscal code suffered major amendments in the past two years. The new measures include: an increase of the VAT standard rate from 19 percent to 24 percent, various amendments to personal income taxation, increasing the tax on dividends paid or distributed to a Romanian legal entity from 10% to 16%, a new "access tax" for locations where gambling activities are organized, etc.. New amendments have been brought to the capital markets legislation as well and are intended to assure a rebirth of the national stock-exchange market. Therefore, Instruction 3/2009 regarding direct and indirect shareholding was

enacted and obliged direct and/or indirect shareholders who exceeded a 33% stake in a company to launch a public takeover offer in maximum two months from the date of reaching the respective holding threshold.

In light of such changes, one may say that substantial efforts are made to ensure that Romania remains an attractive market for foreign investors and entrepreneurs, sectors such as private health care, renewable energy, utilities and infrastructure are an appealing target for high profile investors due to their major potential. Recently, it has been announced that Romania officially emerged from recession and now is getting ready for a new round of privatizations and reorganizations in the energy sector and 18 major PPP projects with a total amount of EUR 1.5 billion.

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.